

# **INTERNAL PROCEDURES OF THE SUPREME COURT**

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**PRACTICE BEFORE THE TEXAS SUPREME COURT**

April 1, 2005

Austin

**CHAPTER 1**



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## INTERNAL PROCEDURES OF THE SUPREME COURT OF TEXAS

### I. INTRODUCTION.

#### A. Purpose and Scope.

The purpose of this paper is to explain and, hopefully, provide some insight into the Court's internal procedures and policies that rule and govern the folding and bending of filings in the Court, especially petitions for review and motions. While some of the observations and suggestions come from the Texas Rules of Appellate Procedure, most come from the author's experience as an attorney for, and clerk of, the Court. That experience, of course, includes countless hallway conferences with other staff attorneys and law clerks, as well as informal discussions with current and former Justices of the Court.

This paper does not attempt to discuss or provide insight into drafting substantively effective petitions or motions.<sup>1</sup> Rather, the focus is on what will help expedite the Court's processing and disposition of matters.

### II. PETITIONS FOR REVIEW.

#### A. Clerk's Office Review and Determinations.

The petition for review is the vehicle by which parties generally seek the Court's review of the decision of a lower tribunal.<sup>2</sup> When a petition is received in the Clerk's office, a deputy clerk enters into the Court's case management system information such as the party names, the district court number and county, and the court of appeals' docket number and district. Additionally, the deputies review petitions to insure that they comply with certain express rule requirements.

#### 1. Component Parts and Form — Striking and Redrafting.

##### a. Identity of Parties and Counsel.

"The petition must give a complete list of all parties to the trial court's final judgment, and the names and addresses of all trial and appellate counsel." TEX. R. APP. P. 53.2(a). It must also provide, preferably on the

cover, the State Bar number, as well as phone and fax numbers, for each attorney. TEX. R. APP. P. 9.1(a). Failure to provide names of counsel or to clearly indicate counsel/party affiliation causes delays or mistakes in data entry.

PRACTICE NOTE: Put parties and counsel into a chart or matrix for clarification.

With the development of the Court's website, these mistakes "go live" on the web each night.

##### b. Appendices and Other Pitfalls.

"Unless voluminous or impracticable, the appendix must contain a copy of:

- (A) the judgment or other appealable order of the trial court from which relief in the court of appeals was sought;
- (B) the jury charge and verdict, if any, or the trial court's finding of facts and conclusions of law, if any;
- (C) the opinion and judgment of the court of appeals; and
- (D) the text of any rule, regulation . . . on which argument is based." TEX. R. APP. P. 53.2(k)(1)(A)-(C).

Although other components may be vital to the Court's review of a petition, the deputy clerks check the appendix to verify that such critical items as the trial court order or judgment, and the court of appeals' judgment and opinion are in the appendix. At least one Justice has asked that petitions be scrutinized for complete copies of the court of appeals' opinion (because some petitioners apparently send copies of every other page of these opinions).

In addition to these essential components, the deputies scan the petition for compliance with TEX. R. APP. P. 9 and 53.6. We check margins (TEX. R. APP. P. 9.4(c)), font size (TEX. R. APP. P. 9.4(e)) (use Times New Roman, 13-point font), forbidden cover colors (TEX. R. APP. P. 9.4(f)), post mark (TEX. R. APP. P. 9.2(b))(retained)<sup>3</sup>, number of pages (TEX. R. APP. P. 53.6), and number of copies provided (TEX. R. APP. P. 9.3(b)). Failure to comply with any of these items subjects the petition to being struck. In that event, the Court will inform the petitioner why the filing has been struck and order it redrawn, usually within two weeks or

<sup>1</sup> For a thorough and helpful analysis of drafting an effective petition for review and motion for rehearing, see Douglas Alexander & Lori Ploeger, *The Ultimate Petition for Review*, State Bar of Texas 16th Annual Advanced Civil Appellate Practice Course (2002) Tab 20.

<sup>2</sup> Of course, some matters are appealed as an original proceeding under Texas Rule of Appellate Procedure 52, some as a Direct Appeal under Rule 57, etc.

<sup>3</sup> The post mark or other delivery system transmission information is cut from the transmission box or envelope and taped to the back of the original petition.

less. See TEX. R. APP. P. 9.4(i).<sup>4</sup> The Court retains the original and a copy, and returns the remaining copies to the petitioner.

**PRACTICE NOTE:** The attorney who signs the petition will be the lead counsel for notice purposes. TEX. R. APP. P. 6.1(b).

**PRACTICE NOTE:** If respondent has filed a waiver before a petition is struck, a second waiver should be filed if respondent desires to accelerate forwarding. This insures that respondent does not wish to respond to the petition as redrawn.

**PRACTICE NOTE:** In some cases, the petition is not redrawn. In that event, the Court will likely not take any further action in the matter. The safest way to move forward may be to allow time for a motion for extension of time plus 10 days for the mail box rule, then move the court of appeals to issue mandate in the matter.

## 2. Holding and Forwarding.

Petitions for review are held in the clerk's office until the earlier of thirty (30) days or a response or response waiver is filed. See TEX. R. APP. P. 53.7(d). Each Tuesday morning, "ripe" petitions, motions for rehearing, and non-emergency original proceeding are "forwarded" from the clerk's office to the Court.<sup>5</sup> Each matter folder contains a copy of the filings in the case to date and a vote sheet for the matter that includes a remarks area.

## 3. Subsequent petitions

"[A]ny other party required to file a petition may do so . . . within 30 days after any preceding petition is filed," unless that is more than 45 days "after the last timely filed motion for rehearing is overruled [in the court of appeals]." TEX. R. APP. P. 53.7(c). In the event that an MET is filed on a subsequent petition, the first petition, although forwarded to the Court from the clerk's office, should not be disposed of until either (1) the second petition has been circulated; (2) a determination is made

<sup>4</sup> Although infrequently, petitions for writ of mandamus are occasionally struck. Because there is no deadline for filing a mandamus, no re-draft date is usually given when these petitions are struck.

<sup>5</sup> Original proceedings and motions accompanying them are actually forwarded to the Court immediately after they are filed, assuming fees are paid. If determined to be of an emergency nature, they are processed asap. Otherwise, they are treated as forwarded with the following Tuesday's petitions for review and processed in due course. Similarly, motions for rehearing are forwarded immediately.

that the second petition has not been and can no longer be submitted timely; or (3) the Court decides to dispose of the first petition before the filing of the second petition.

## **B. Judicial Determination.**

### 1. Votes Due – Time and Options.

Along with a batch of petitions, motions for rehearing, and non-emergency proceedings forwarded on a particular Tuesday, the Court receives a purple-colored vote sheet (see Appendix 1) listing each matter forwarded. The vote sheet indicates when the vote is due on that set of matters: by noon on the Tuesday immediately before the expiration of 30 days after the forwarding date. For example, for matters forwarded on Tuesday, February 1, 2004, the votes are due on or before noon Tuesday, March 1. The timing and disposition of each matter then turns on the Justices' votes (see Appendix 2).

#### a. DENY.

If all the votes are to deny the matter, even if less than 9 votes are cast, the matter is denied on the following Friday's set of weekly orders. In the hypothetical above, matters receiving only a "deny" vote would be denied on Friday, March 4.

#### b. REQUEST RESPONSE.

If any Justice votes to request a response in a matter, the clerk's office requests by letter that the response be submitted within 30 days. Assuming the response is timely filed, the petition is scheduled to be discussed and voted on at the Monday conference immediately following 30 days after the response arrives. If the response is not timely received (and no motion for extension of time is filed and granted (see IV.A.2)), the matter is ultimately placed on a conference agenda with a notation that the response was never received. The Court may then dispose of the petition or instruct the clerk's office to either request a status report on the response or make other inquiry.

#### c. DISCUSS.

If any Justice votes to discuss a matter, the matter is discussed in that Monday's conference or the earliest scheduled Monday conference. If no other interest is shown, the matter is denied on the following Friday's orders.

#### d. DISMISS WOJ.

Likewise, if any Justice votes to DWOJ a matter, the matter is discussed in that Monday's conference or the earliest scheduled Monday conference. If 5 or more

Justices vote to DWOJ the petition, it is dismissed WOJ on the following Friday's orders. If not DWOJ'ed, the matter is denied or otherwise disposed of according to the votes in conference.

e. **REQUEST FULL BRIEFING AND MEMO.**

If three or more Justices vote to do so, the clerk's office will request full briefing. The request letter will indicate<sup>6</sup> when petitioner(s)' and respondent(s)' briefs on the merits are due, and when petitioner(s)' reply brief on the merits is due. Additionally, under a voluntary program, the Court requests submission of ecopies of all briefs so that these may be posted on the Court's website. And, upon receipt of the request for briefing, we also request that parties submit ecopies of the petition, response, or other items already on file in the case. Finally, if you submit an amicus brief, please submit it electronically in addition to providing hard copies.

When briefing is requested, the record is simultaneously requested. Within thirty days after the respondent(s)' brief is received, a study memo is due to be circulated to the Court. The memos are assigned to each Justice's chambers in rotation, and the memo is prepared for the Court by a law clerk in the assignee's chambers. If the Court so instructs, the memo is tailored to one or more issues that the Court wants developed (vs. the range of issues presented by the parties). The matter is then placed on the next conference agenda. The Court will then vote whether to deny, grant, or otherwise dispose of the matter unless, as occasionally happens, the Court determines that a supplemental memo is desired.

f. **GRANT.**

If 4 or more Justices vote to do so, a petition is granted. The Court rarely grants a petition without first requesting full briefing and having a study memo prepared. In no event should the Court grant a petition with out first requesting a response. TEX. R. APP. P. 53.3. If a petition is granted, that disposition will be on that Friday's weekly orders. If the Court has determined an oral submission date, that information will also be on those orders; otherwise, the orders will state that the submission date has not been determined. This information, like the briefing due date, is then posted on the Court's website.

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<sup>6</sup> The clerk's office will also create a calendar showing the date each brief is due. These calendars may be viewed on the Court's website.

g. **HOLD.**

If 6 or more Justices so vote, a matter may be held over. This may be so that the matter may be considered with another matter, or so that further study can be done.

h. **PER CURIAM.**

If 6 or more Justices so vote, the Court may, without hearing oral argument, grant the petition and issue a *per curiam* opinion. TEX. R. APP. P. 59.1. In that event, the Chief Justice will assign a Justice to draft a *per curiam* opinion in the matter. Following further deliberations, either the opinion will issue on 6 votes, or the matter will be otherwise disposed of.

i. **REFUSE.**

If 6 or more Justices agree, the court of appeals opinion may be refused. In the author's experience, the Court will usually only consider refusal after a study memo has been prepared, and the memo endorses the court of appeals opinion.

j. In sum, the following votes are required for the corresponding action or disposition:<sup>7</sup>

DENY	1	(UNLESS OTHER VOTES)
RESPONSE	1	
DISCUSS	1	
DISMISS WOJ	5	
BRIEFING/MEMO	3	
GRANT PET	4	
HOLD	6	
PER CURIAM	6	
REFUSE	6	
GRANT MANDAMUS	5	
GRANT STAY	5 <sup>8</sup>	

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<sup>7</sup> For a statistical analysis of petitions dispositions, see Pamela Stanton Baron & Stacy R. Obenhaus, *The Texas Supreme Court by the Numbers: A Statistical Survey*, University of Texas School of Law 11th Annual Conference on State and Federal Appeals (2001), Tab 18. For a more anecdotal report, see Douglas Alexander & Lori Ploeger, *The Ultimate Petition for Review*, State Bar of Texas 16th Annual Advanced Civil Appellate Practice Course (2002), Tab 20.

<sup>8</sup> Although only one vote is required to grant a stay, the Court prefers to have a majority vote before granting.

## 2. Opinions

### a. Drawing.

When the Court has granted 9 or more petitions (which, after granting become “causes”), each Justice, in reverse seniority order, will draw a case out of the “hat.”

### b. Writing.

Assuming that the drawing Justice retains a majority of votes after post-submission conference, he or she drafts a majority opinion for the Court’s review. If it is clear at the post-submission conference that a dissent is likely, the Chief Justice may request that a Justice begin drafting the dissent.

### c. Disposition.

After the majority writing garners 5 or more votes, and the majority supporters believe that any separate writings have been adequately addressed, the Court will determine that the opinion should be issued. The opinion and judgment will issue on the next regularly scheduled Friday’s orders (barring time-related exigencies).

### d. Judgment Production.

The Justice (or her legal staff) writing the majority opinion prepares the judgment prior to release of the opinion (barring circumstances causing a later release of the judgment).

## C. Disposition in the Clerk’s Office.

### 1. Orders - Daily and Weekly.

From time to time, the clerk’s office is instructed to issue a daily order disposing of a motion in a cause, a motion for emergency relief, or some other matter. The clerk’s office also prepares the weekly orders. These are a compilation of all daily orders that have issued, and other matter dispositions determined after the previous Friday’s weekly orders. The clerk’s office begins drafting the weekly orders on Monday or Tuesday afternoons, after some or all matters have been decided in that week’s conference (or, if in a week without conference, after the purple vote sheets have been turned in at noon that Tuesday. (See II.B.1 above.) Draft orders are circulated to the Court no later than 10:00 a.m. on Thursday of each week for release that Friday at 9 a.m. The orders are reviewed, revised and re-circulated by 1:00 p.m. each Thursday. After the 9 a.m. release, a letter is prepared and sent by the clerk’s office, noticing lead counsel(s), the court of appeals, and the trial court of the Court’s disposition. If the disposition is by written opinion, copies of the opinion and judgment are mailed to the parties and the lower courts. Orders are released to the publishers (West, Lexis, Supreme

Court Journal), and placed on the Court’s website. Mandates issue shortly after a motion for rehearing is denied, or 50 days after an opinion issues if no motion for rehearing is timely filed.

## 2. Letter dispositions and requests.

### a. Motion dispositions.

If a motion is not related to a cause, it is usually disposed of by letter. Pursuant to the Court’s instruction, the clerk’s office informs the parties of these dispositions.

### b. Status Reports.

From time to time, the Court will have the clerk’s office request a status report from the parties. This usually involves cases in which abatement or extensions have been sought for bankruptcy or settlement purposes.

## III. ORIGINAL PROCEEDINGS (AND ACCOMPANYING MOTIONS).

### A. Clerk’s Office Review and Data Entry.

In a method similar to that for petitions for review, the clerk’s office checks each petition for writ of mandamus or habeas corpus, or other original proceeding, for basic compliance with appellate rules of form. *See* TEX. R. APP. P. 9, 52. Working with the staff attorney for original proceedings, (known to the Court and staff as the “mandamus attorney”), the clerk’s office (acting under the Court’s authority) will determine if an original matter should be struck. Unlike when a petition for review is struck under Rule 9.4(i), the Court does not usually provide a deadline for re-filing an original matter because the time for filing such a matter is not expressly jurisdictional under the rules. Delay in filing a mandamus, however, may reduce the likelihood that a party will succeed.<sup>9</sup> After entering the data such as party and lower court names and numbers, the clerk’s office forwards all original matters immediately to the mandamus attorney (unless fees are outstanding)(see section V below).

### B. Judicial Determination.

The mandamus attorney then reviews each matter to determine whether it requires the Court’s immediate attention. If no emergency is expressly or impliedly presented, the mandamus attorney will ask the administrative staff on third floor to circulate the matter in the regular course, as if it were forwarded to the Court with that week’s petitions for review. Alternatively, if

<sup>9</sup> *See Rivercenter Assocs. v. Rivera*, 858 S.W.2d 366 (Tex 1993).

the matter appears to be an emergency or the petitioner has claimed it to be, the mandamus attorney either (1) summons the Justices to the conference room by ringing a bell (similar to a door bell) that is audible in each chambers, or (2) circulates a memo to the Court describing the case and the arguments for extraordinary relief, and recommending a disposition. Justices who are not available for a conference are contacted by phone or fax if possible. After the mandamus attorney's briefing and a discussion, or after review of the mandamus attorney's memo, the Court decides whether to request a response, grant a stay, or deny all or part of the relief requested.

**PRACTICE NOTE:** If emergency relief is needed within 48-72 hours, please call us. We may request/allow you to email or fax your filing to the Court so the Court can begin to review the filing (even though it is not technically filed yet). If so, you should copy opposing counsel by the same transmission mode.

1. Deny/Deny.

Occasionally, the Court will determine that emergency relief as well as the underlying petition should be denied without further briefing or discussion. In that event, the clerk's office will so inform the parties and lower courts. In addition, if time is or appears to be short, we will call and fax dispositions to the parties and courts involved.

2. Consider in Regular Course.

As described above, some petitions for writ of mandamus have neither a motion for emergency relief nor an implied need for such. In that event, the petition is usually circulated to the Court with the petitions for review forwarded the following Tuesday.

3. Request a Response.

The Court may request a response to either a motion for emergency relief, a petition, or both. While the Court may grant an emergency stay without first requesting a response, it will not grant a petition for writ of mandamus without first requesting a response. TEX. R. APP. P. 52.4. In some situations, the time allowed for filing a response may be extremely short. Again, the clerk's office will fax and call the parties and lower courts if action is requested in a matter of hours or a few days. In that event, we will usually allow faxing or emailing the response.

4. Request Full Briefing/Set for Oral Argument.

In some cases, the Court may determine, with or without briefing (beyond the petition and response) that

review should be granted. The Court will then instruct the clerk's office to issue a daily order or to notify the lower courts and parties that the matter is set for oral submission. The Court uses the language "set for argument" in a mandamus rather than "granted" as in a petition for review to make clear that the relator's requested relief is not actually being granted.

**IV. MOTIONS (\$10; \$15 FOR REHEARINGS).**

**A. Motions to Extend Time (METs).**

The Court has assigned METs to the clerk for disposition. The Court developed a set of procedures to insure consistent disposition of these motions. Motions must have either a certificate of conference (**preferred**) or make clear in the body of the motion whether opposing counsel(s) oppose or agree to the motion. TEX. R. APP. P. 10.1(a)(5).

**PRACTICE NOTE:** Style the motion as Unopposed (i.e., Unopposed Motion to . . .)

Additionally, each MET must provide, among other things, the critical disposition dates in the court of appeals. TEX. R. APP. P. 10.5(b)(2), (3)(B). The following general rules apply to Unopposed METs for Petitions for Review.<sup>10</sup> If a MET is opposed, the clerk's office will inquire whether opposing counsel intends to file any opposition. If it is not clear from the certificate of conference whether the MET is opposed, the clerk's office will call the movant, and, if necessary, the nonmovant. If no certificate is present, the clerk requests a certificate before disposing of the motion. Finally, an MET to file a petition for review is never denied without the Court's approval.

1. Unopposed METs for Petitions for Review.

The first will be granted for up to 30 days. A second will also be granted for up to 30 days, but the grant letter will include "standard" language informing the movant that further requests for extensions will be disfavored.

2. Unopposed METs for Responses to Petitions.

If requested by the Court, the requesting Justice(s) will be asked if they want to grant the extension. If so, it will be granted. If unrequested, the MET will be granted for up to 30 days; the grant letter will include the standard language about further requests being disfavored.

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<sup>10</sup> The extension granted is approximately halved for METs in cases involving termination of parental rights.

3. Unopposed METs for Replies (to Responses to Petitions).

These receive a letter neither denying nor granting. Instead, the movant is informed that a reply is not jurisdictional; if the reply arrives before the petition is disposed of, it will be considered.

4. Unopposed MET for Petitioner's and Respondent's Briefs on the Merits.

These are granted for up to 30 days and the standard language further requests for extensions will be disfavored is included.

5. Unopposed METs for Petitioner's Reply Brief on the Merits.

Unless the chambers to which the study memo has been assigned informs the clerk that it wants to grant the MET, the movant is informed that if the brief arrives prior to disposition, it will be considered.

6. Unopposed METs for Motions for Rehearing.

a. Of a Cause.

The chambers that authored the majority opinion will decide whether to grant the MET.

b. Of a Denied Petition.

The clerk's office processes these. The first MET is granted for up to 30 days, and the movant is informed that further requests for extensions will be disfavored.

7. Unopposed (or not) METs for Petitions for Writ of Mandamus.

PLEASE do not file these motions. Because no rule or statute requires that petitions for writ of mandamus be filed within any particular time, there is no need to request an extension to file.

**B. Other Motions.**

Most other motions are processed by the clerk unless they are assigned to a chambers for memo or opinion. In assigned cases, that chambers will dispose of non-MET motions in that matter.

1. Motions to Abate.

These motions, whether for bankruptcy or settlement purposes, are presented to the Court, usually by short memo. The clerk will usually recommend a particular disposition to be effected at a certain time otherwise instructed before that time.

2. Motions for Rehearing.

a. Of a Cause.

These are processed by the chambers that drafted the majority opinion in the matter. The staff prepares a brief memo to the Court summarizing and analyzing the arguments on rehearing. The memo writer usually makes a recommendation to grant or deny the motion. The memo is circulated and the matter is placed on the next conference agenda.

b. Of a Petition.

These are distributed to the Court each Tuesday with the petitions for review forwarded for that week.

3. Motions to Dismiss Pursuant to Settlement.

Parties may jointly move to dismiss if a case is settled. TEX. R. APP. P. 56.3. Depending on the particulars of the motion, the petition will be dismissed, the lower court judgments vacated (but rarely will the opinion of the court of appeals be vacated), the cause remanded to the trial court for rendition pursuant to settlement, or other disposition requested. *Id.* If the dismissal requires granting the petition in order to act on the lower court(s)' judgments, the Court will issue a judgment and mandate.

4. Motions to Appear Pro Hac Vice.

See attached Appendix 3 for applying to appear *pro hac vice*. The bottom line is that each out-of-state attorney who wants to literally appear or have her name listed on a brief filed in a Texas court must pay \$250 per court.

**V. UNPAID FILINGS.**

Matters received without adequate funds are filed when received. They are not, however, forwarded to the Court until and if the fee, or an affidavit of indigency, is received. When such an unpaid matter is filed, the clerk's office informs the parties in writing (and by phone if possible and time permits) of these forwarding conditions, and explains that the filing is subject to dismissal unless the fees are timely paid. The filing party is given 10 days to pay the applicable fee. Otherwise, after allowing an additional 10 days for the "mailbox" rule (TRAP 9.2(b)), the clerk's office will ask the Court to dismiss the matter for non-payment of fees under Texas Rule of Appellate Procedure 5. No matter is ever dismissed for non-payment of fees without the Court's approval.

**PRACTICE NOTE:** If you have filed a MET without adequate fees, and do not promptly pay (or submit an affidavit of indigency), please inform the clerk

and opposing parties if, due to the delay in paying the fee, you then need a more generous extension than first requested.

## **VI. ORAL ARGUMENT.**

### **A. Preparation.**

When a petition for review is granted (or a mandamus set for argument), the Court will usually simultaneously announce the date for oral argument. In those matters, the clerk's office will notify the parties of the date and time for argument, and request that the parties fill out and return a submission form to inform the Court who will present argument for each party. Without leave of Court, no more than two attorneys may argue each side or sit at each counsel table. *See* TEX. R. APP. P. 59.5. On the Friday before argument (which is usually on a Wednesday, and usually all but one Wednesday per month September through April) the clerk's office prepares a submission schedule showing the order in which the cases for that Wednesday will be submitted. The cases are usually presented in numerical order. A link to causes set for oral submission is on the website.

### **B. Submission.**

Counsel for all cases are asked to arrive by 8:30 the morning of arguments, and to check in with the marshals. The marshals will ask if more than one attorney will be arguing for a party, and, if so, how time will be split. Likewise, we will ask if time will be reserved for rebuttal. The marshals will explain the warning light system on the podium. If illustrative exhibits will be used, eleven 8.5" X 11" versions must be filed with the clerk's office (along with a fee of \$25) no later than the morning of argument. If larger exhibits accompany the 8.5" X 11" exhibits, counsel should inform the marshals so that an easel may be set up. Finally, the arguments are digitally recorded, and are available on the Court's website, usually by the end of the day a case was argued.

## **VII. ADMINISTRATIVE MATTERS.**

### **A. Licensing.**

The Court, through the Board of Law Examiners and State Bar of Texas, licenses and regulates attorneys in Texas. The clerk's office issues approximately 4,000 licenses each year. Replacement and additional licenses are available for a fee of \$25. If a replacement license is requested (such as for a name change), the original license must be surrendered to the Clerk.

### **B. Certificates of Good Standing.**

Two certificates are available. For \$10, the Bar provides a certificate that states whether a particular

attorney is currently in good standing, and gives a history of any administrative suspensions on that attorney's record. Alternatively, for \$5, the Court will issue a certificate stating whether the attorney has been in good standing for a particular period of time, but no itemized history is provided. Address your request, with applicable fee and postage paid return envelope, to the Bar or the Court, depending on the type certificate you need.

### **C. Administrative Orders.**

Whether generated by the Court or an affiliated entity, the clerk's office processes numerous administrative orders each year. These range from rule promulgation and amendment, to committee appointments. When approved and executed, these orders are available in the clerk's office and promptly posted on the Court's website.

### **D. Expungements and Reinstatements.**

From time to time, attorneys (and even judges) are administratively suspended for nonpayment of Bar dues, Occupation Taxes, or student loan payment, or for failure to timely complete MCLE requirements. When the suspension is for failure to pay dues or assessments, it is clear that upon payment of the dues or assessment, and all applicable penalties and late fees, reinstatement is automatic and retroactive. State Bar Rules, art. III, § 7. When the suspension is related to other issues, it is not clear that reinstatement is retroactive. *See* State Bar Rules, art. III, § 8. And in any event, suspensions remains on an attorney's record. If an attorney wants to request either (1) reinstatement or expungement (or both), or (2) a waiver of a fee or dues requirement (or all of the above), she should send to the clerk a letter requesting same and explaining the extenuating or mitigating circumstances. These letters should be brief, and no filing or administrative fees are required. Upon receipt by the clerk, a copy of the request is forwarded to the Bar for review and comment. That report is returned to the clerk, who then prepares a brief summary memo and recommendation to the Court's liaison Justice to the Bar. If that Justice is comfortable making a decision in the matter, she or he will do so and inform the clerk. If not, the matter will go to the full Court for a decision. Regardless, after a decision is reached, the clerk will inform the attorney and the Bar.



APPENDIX 1

CONFIDENTIAL INFORMATION

Chief Justice Phillips

Petitions Forwarded as of Tuesday, March 4, 2003

VOTES DUE: Monday, March 31, 2003, 12:00 noon

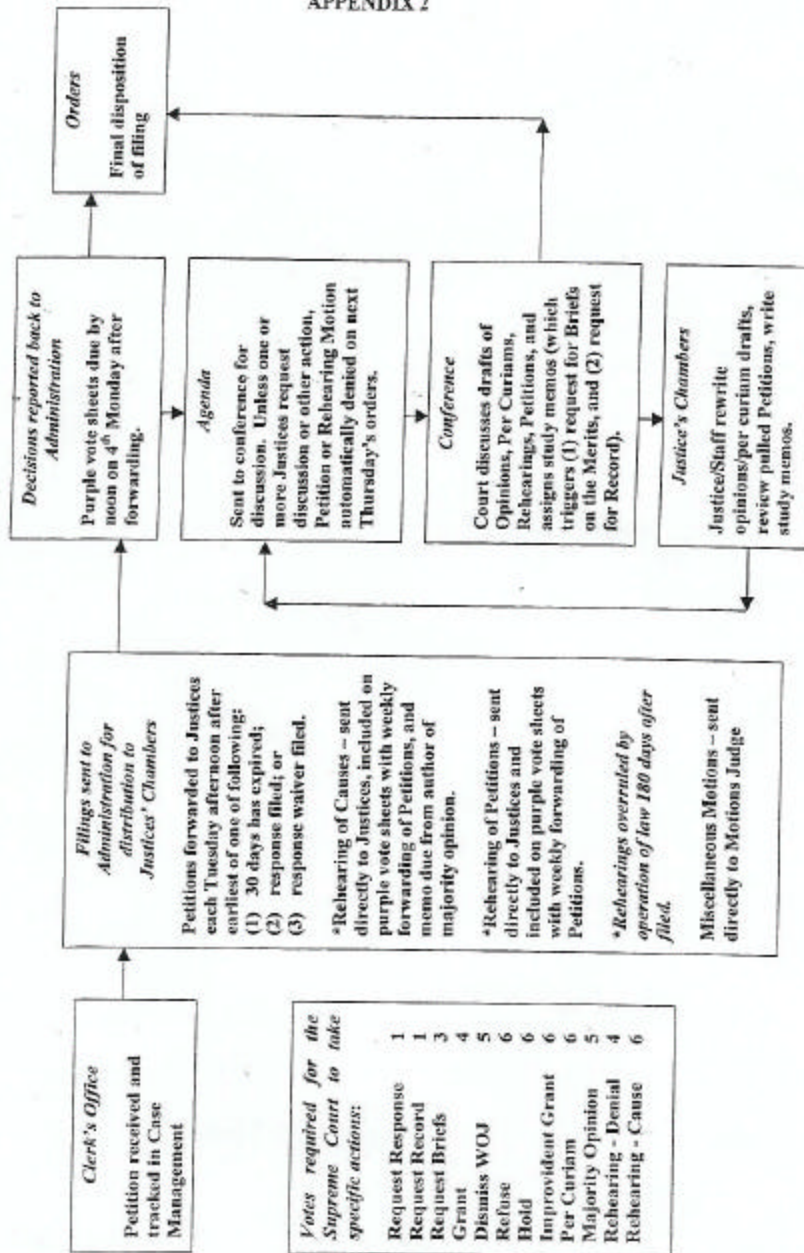
To Be Denied On: Thursday, April 3, 2003

Petition #	Style	Response Requested	Record Requested	Conference							Deny	
				Discuss	Memo	Brief	PC	Grant	WQJ	Retire		Hold



**FLOWCHART FOR PETITION FOR REVIEW FILINGS**

**APPENDIX 4**





## Appendix 3

## Pro Hac Vice Admission

During the week of February 23 – 27, 2004, the Board of Law Examiners staff will be administering the Texas Bar Examination. Staff will not be able to accept or return any telephone calls, e-mails or other correspondence during that week, nor will applications, including Pro Hac Vice applications, be processed.

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Read Rule XIX of the current Rules Governing Admission to the Bar of Texas, and the applicable statutory provisions found in Texas Government Code, Sec. 82.001 et seq., all of which are contained in the Board of Law Examiners' (Board) rulebook before submitting the Application For Pro Hac Vice Admission. We also suggest reading the Texas Disciplinary Rules of Professional Conduct, set forth in Article X, Section 9 of the State Bar Rules, posted on the Internet at [www.txethics.org/reference\\_rules.asp](http://www.txethics.org/reference_rules.asp).

Filing the Application For Pro Hac Vice Admission and fee is the mandatory first step in your request for permission to participate in proceedings in a Texas Court. The next step is to file a sworn motion, in compliance with Rule XIX of the current Rules Governing Admission to the Bar of Texas, in the Texas Court in which you request to participate, which must be accompanied by the acknowledgment letter you will receive from the Board. The decision to grant or deny your application is ultimately made by the Texas Court in which you request to participate. For purposes of compliance with this Rule and Texas Government Code Sec. 82.0361, proceedings file under a new cause number in any Texas Court, including all appellate courts, are considered new proceedings and are subject to a new application and fee.

1. Download and complete the Application For Pro Hac Vice Admission. In order to download the Application, you will need to have the Adobe Acrobat Reader installed on your PC. If you do not have, or if you need to update to the most current version of Adobe (Version 6.0), click on the icon below to go to Adobe's download site. This is a free download. If you are using Version 4 of Adobe, you may be unable to use this form. We suggest you download and install the new version of Adobe, and then try to open the Application form.

2. Filing Fees: Make your check, money order, or bank cashier's check payable in the full amount due to the BOARD OF LAW EXAMINERS (NOT to the State Bar of Texas). The filing fee is \$250.00. (See Texas Government Code Sec. 82.0361.) Do not postdate your check. An application is not considered filed until all fees are received in the Board's office. If your personal check for fees is returned for insufficient funds or is otherwise dishonored by your bank, you will be assessed a returned check charge. All fees due after that time must be paid by bank cashier's check or money order. There is no refund of fees if you withdraw your application or do not meet all requirements for admission. Persons seeking to represent an indigent person may qualify for a waiver or reduction of the filing fee

upon completing and filing the Fee Waiver/Reduction Request for Pro Hac Vice Applicants form downloadable from the Board's website.

3. Filing of Application: Mail or deliver your application and required fees to the Board as follows:

Mailing Address:

Board of Law Examiners  
P.O. Box 13486  
Austin, TX 78711-3486

Delivery Address:

Board of Law Examiners  
205 West 14th Street, 5th Floor  
Austin, Texas 78701

The Board will acknowledge receipt of your application within 14 days. The acknowledgment letter will serve as your proof of payment of the requisite fee and will need to be included with your written motion to the Texas Court in which you are requesting permission to participate. If you do not receive such an acknowledgment by that time, please contact the Board's office.

4. File a sworn motion, in compliance with Rule XIX, in the Texas Court in which you request to participate and include the acknowledgment letter, which you will receive from the Board once your application is processed.

5. The decision to grant or deny your application is ultimately made by the Texas Court in which you request to participate.