

# A New Era for Summary Judgment Practice in Texas

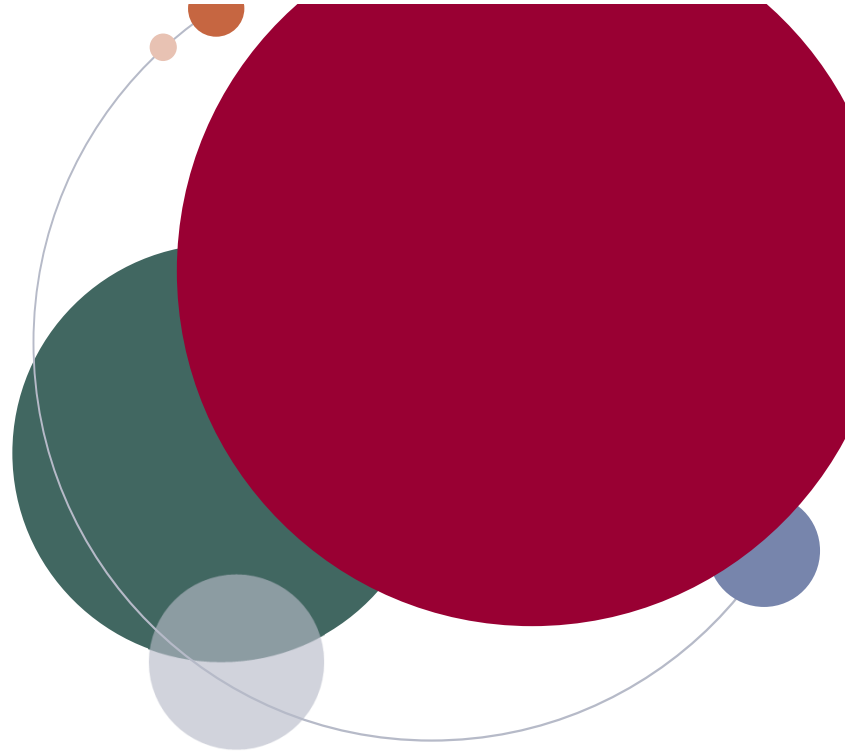
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# Texas Rule of Civil Procedure 166a “has been completely rewritten”

-- Supreme Court of Texas, Preliminary Approval of  
Amendments to Rule 166a of the Texas Rules of Civil  
Procedure, Misc. Dkt No. 25-9106 (Dec. 30, 2025)

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# TRCP 166a Changes Preceded by Legislative Enactments

- **S.B. 293** – created Tex. Gov’t Code § 23.303
  - Effective Sept. 1, 2025 – Dec. 3, 2025
- **H.B. 16** – amended Tex. Gov’t Code § 23.303
  - Effective Dec. 4, 2025 – Present
- **Amended TRCP 166a**
  - Effective Mar. 1, 2026



# Amended TRCP 166a – Critical Changes



## Briefing Deadlines

Nonmovant response due 21 days after motion  
Movant (optional) reply due 7 days after response



## Deadlines for Court to Act

Motion must be submitted or heard within 35-60 days after filed (or 90 in certain circumstances)  
Written ruling required within 90 days of submission/hearing date



## Total Time from Motion Filing to Written Ruling

35-180 days

# Amended TRCP 166a – Additional Changes

- Neatly Codifies Traditional vs. No-Evidence Motion Timing, Content, and Standards
- Affidavit Required to Move for Additional Response Time
- Motion Formatting
- Formal Procedure to Withdraw Motion



# Judicial Compliance

- **Tex. Gov't Code § 23.303(c)-(d)**
  - Clerk to quarterly report compliance to OCA; OCA to annually report compliance to Executive, Legislature, and public
- **Proposed Tex. Jud. Admin. R. 6.3**
  - Expected to take effect July 1, 2026
  - District court judges must submit semi-annual sworn statement to Regional Presiding Judge and OCA stating number of hours “presiding over court” and “performing other judicial duties”



# Amended TRCP 166a – Implementation

- **Compliance data not yet publicly available**
  - First Reports to OCA Due Sept. 2026
- **Key Consideration: Local Rules and Practice**
- **Example: Harris County**
  - Some Courts and Judges Have Not Addressed the Changes
  - Others Have – *e.g.*, 61st (Judge Shuchart), 80th (Judge Aston), 133rd (Judge Perdue), 190th (Judge Miller)
    - Motion Auto Denied w/o Prejudice if Not Set/Heard in 60 or 90 Days
    - Passing a Motion Not Allowed; Motion Must be Withdrawn
    - Email/Call Insufficient to Withdraw Motion or Pass Hearing

# Amended TRCP 166a – Implementation

- **Example: Travis County**

- May 20, 2026 Standing Order for MSJs
  - Applies to 10 of the 12 District Courts in Travis County (98th and 250th Excluded)
  - Sets a Precise and Rigid Hearing Schedule for MSJs from Now through the End of 2027
  - “Once you file your MSJ, your hearing date and time are set and you may not ask for a different setting.”
  - If your case is assigned to a particular judge (i.e., not on the central docket), “permission must be granted by that court before an MSJ is filed.”



# Amended TRCP 166a – Implementation

## Snippet of Travis County MSJ Schedule

Date Your MSJ is Filed in 2026	Date Your MSJ will be Heard IN PERSON
June 1-June 3	July 9, 2026
June 4-June 10	July 16, 2026
June 11-June 17	July 23, 2026
June 18-June 24	July 30, 2026
June 25-July 1	August 6, 2026
July 2-July 8	August 13, 2026
July 9-July 15	August 20, 2026
July 16-July 22	August 27, 2026
July 23-July 29	September 3, 2026
July 30-August 12	September 17, 2026
August 13-August 19	September 24, 2026
August 20-August 26	October 1, 2026
August 27-September 2	October 8, 2026
September 3-September 9	October 15, 2026
September 10-September 16	October 22, 2026
September 17-September 23	October 29, 2026
September 24-September 30	November 5, 2026



# Amended TRCP 166a – Implementation

- **250th District Court, Travis County (Judge Liu)**
  - Has Own Standing Order on MSJs (March 31, 2026)
  - Automatically Sets MSJs for Submission 36 Days from Filing.
  - Standing order notes it is “intended to ensure that the 250th District Court complies with Texas Government Code § 23.303 and Tex. R. Civ. P. 166a.”



# Amended TRCP 166a – Implementation

- **One more example: 44th District Court, Dallas County (Judge Frazier)**
  - Automatically Sets MSJs for Submission on First Available Date After 35 Days of Motion's Filing
  - If a litigant wants a motion stayed, he/she must withdraw it; you can request a continuance, but the hearing/submission deadlines still apply.



# Office of Court Administration

- **MSJ Reporting FAQs – Directed to Court Staff (Not Rules of Practice but Interesting)**
  - **Q:** “If an attorney files an amended motion for summary judgment, do we reset the timeline based on the amended filing?”
    - **A:** “An amended motion for summary judgment will not reset the timeframes. Compliance timeframes and reporting are based on the original file date.”
  - **Q:** “What happens if the case is abated before a ruling is made?”
    - **A:** “If a case is abated after a motion for summary judgment was filed it would effectively deactivate the motion for summary judgment and stop compliance tracking for reporting purposes.”



# Issues and Considerations

- **Strategies for Trial Court Motion Practice Must Evolve Quickly**
  - Better to Over-anticipate than be Caught Unprepared
- **Complexities if Deadline for Ruling Approaches**
  - Withdraw Motion?
  - Effect of Perfunctory Denial at Deadline
  - Effect of Ruling that Violates Statutory Timing Requirement



# Issues and Considerations

- **Impacts On Other Types of Motion Practice**

- Rule 166 – New Utility?

- (g): “The identification of legal matters to be ruled on or decided by the court.”

- Example: *Enosis Investments v. Jensen*, No. 25-BC03A-0008, 2026 WL 1104315, at \*1 (Tex. Bus. Ct. Apr. 23, 2026) – Finding no fiduciary duty existed based on pleadings and LLC agreements

- (p): “Such other matters as may aid in the disposition of the action.”

# Issues and Considerations

- **Preserve the Record**
  - Clear Record of Docket Activity: Date Motion Filed, Heard/Submitted, Ruled On
  - Devices by Which to Call Court's Attention to Noncompliance
- **Streamline and Simplify Individual Motions**
  - Limited Issue Set
  - File early
  - Break MSJ Practice into Multiple Motions
- **Use Proposed Orders**
  - Enhanced Usefulness in Defining Appeals



# Issues and Considerations

- **Mandamus Based on New MSJ Deadlines?**

- At least one person has tried it: *In re Penson*, No. 06-26-00007-CV, 2026 WL 308317 (Tex. App.—Texarkana Feb. 5, 2026, no pet.).
  - Trial Court Granted Indefinite Continuance of MSJ Submission
  - Pro se Plaintiff Petitioned for Mandamus Relief
  - The Court of Appeals: *“Trial courts are required to consider and rule on motions within a reasonable time.’ . . . Often, ‘[d]etermining what time period is reasonable is not subject to exact formulation.’ . . . However, the Legislature has recently provided statutory timelines for considering motions for summary judgment. . . . The petition does not show that the trial court exceeded the time permitted by Section 23.303. We deny Relator’s requested mandamus relief.”*

# Comments and Q&A



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**Jarod Stewart** is chair of Steptoe's Commercial Trials & Litigation Group. He is a seasoned litigator and trial lawyer who gets the details right; is responsive; and out-briefs, out-prepares, and out-works the opposition to succeed in litigation and at trial. Jarod has represented plaintiffs and defendants in a wide variety of matters, including business divorces, trade secrets disputes, healthcare litigation, fraudulent-transfer lawsuits, oil and gas disputes, and transnational cases involving Latin America.

Jarod primarily focuses his practice on helping clients in the energy and healthcare industries. He has gone toe-to-toe with outstanding lawyers from across the United States and has won significant victories for his clients in court, arbitration, and administrative proceedings. Clients praise his ability to produce outstanding work product quickly, and to help them navigate thorny legal issues whenever and wherever he is needed.

Jarod's clients know that they can call him at any time to provide guidance and direction on how to navigate disputes at an early stage or throughout hard-fought litigation, including trial and appeal.

**[Click here](#)** for full biography.



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**Patrick Fields** is an associate in Steptoe's Commercial Trials & Litigation Group and has represented clients across a broad variety of industries. Some of Patrick's recent matters include representation of a renewable gas company in a corporate control dispute in Delaware Chancery Court; representation of a chemicals company in a multi-front construction dispute in south Texas; representation of a gas gatherer and processor in litigation over NGL volumes in Texas state court; and a cross-border arbitration for a joint venturer disputing control and profits of G&G projects in Mexico. Prior to joining Steptoe, Patrick regularly represented subsidiaries of an oil and gas major in complex commercial indemnity and commercial insurance disputes across the country.

Along with a robust commercial docket, Patrick has experience before administrative agencies and challenges to governmental action, especially with respect to immigration-related matters. He frequently works across the firm's practice groups, including in such recent matters as an immigration habeas action and First Amendment litigation challenging OFAC sanctions.

Following law school, Patrick clerked for the Honorable Leslie H. Southwick of the US Court of Appeals for the Fifth Circuit.

[Click here](#) for full biography.

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