

the Supreme Court of Texas Blog

Helping Texas Appellate Counsel and Trial Lawyers Follow the Texas Supreme Court

New SCOTX order: E-filing moves from voluntary to mandatory in one month

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The Texas Supreme Court has been telling us that e-filing would move from “voluntary” to mandatory this fall. Now, the Court has set the date. Beginning September 12, 2011, all motions and briefs submitted by counsel¹ must be sent through e-filing.

Like its previous e-brief orders, this one makes some fine-tuning adjustments to the process. The required paper copies are now due “within three business days after” e-filing, not the next business day. And the number of copies needed now varies by type of filing:

Documents	Paper copies
Motions	No copies
Petitions, responses, and petition-stage replies ²	2 copies
Amicus briefs	2 copies
Briefs on the Merits	4 copies
Record in original proceeding	1 copy

Advocates should note: The Court wants more paper copies of merits briefs than petitions. This difference, I am told, reflects the Justices’ preferences about when they would want a paper copy. More wanted access to a paper copy of merits briefs than petitions.

There are two other changes that affect paper copies.

First, the Court now specifies that the paper copy must be the **file-stamped** PDF returned to you by the e-filing system. The Court wants to ensure that the paper version matches the final e-filed version. (This also makes pretty clear that the e-filed version is the official one.)

Second, the Court now specifies which appendix items should be included on paper. According to the new order,

Unless voluminous or impracticable, the appendix to a paper copy **need only include** the content required by Texas Rules of Appellate Procedure 52.3(k) and 53.3(k).

This could affect the evolving conversation about whether to include just a few hyperlinks or whether to include as many hyperlinked authorities as possible. Under the old rules, embedding a document into your PDF meant that it also had to be printed and bound into the paper courtesy copies as well (and could have meant very large paper documents). The new rules give counsel more latitude. They “need only” include paper versions of the appendix items required by the rule.

This last change should let advocates focus on doing what makes the official electronic version as helpful as possible.

Here’s the full order: [Electronic-Copy and Electronic-Filing Rules for the Supreme Court of Texas \(http://www.supreme.courts.state.tx.us/miscdocket/11/11915200.pdf\)](http://www.supreme.courts.state.tx.us/miscdocket/11/11915200.pdf)

1. The order carves out pro se litigants, who may use the e-filing system if they choose. [↔]