

JUNE 2023

UT LAW CLE

 **TEXAS Law**
The University of Texas at Austin
School of Law

INDICATIVE RULINGS— CAN WE TALK?

Indicative rulings under FRCP 62.1 & FRAP 12.1

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 **TEXAS Law**

Problem?

- Generally, docketing of appeal transfers jurisdiction from the DCT → CA
- But, even after jurisdiction has passed to CA, sometimes a party needs relief from DCT
- (e.g. Rule 60(b) motions)

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Problem?

- SCOTUS: DCT & CA “should not attempt to assert jurisdiction over a case simultaneously”
- But ousting jurisdiction from DCT after post-j motions are disposed of is odd b/c deadline for FRCP 60(b) motions continues to run

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Problem?

- deadline for Rule 60(b) motion:
“within a reasonable time—and for reasons (1), (2), and (3) no more than *a year* after entry of judgment”

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Rule 60(b)(1)–(3): “no later than a year”

(1) mistake, inadvertence, surprise, or excusable neglect

(2) newly discovered evidence

(3) fraud, misrepresentation, or misconduct by an opposing party

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Rule 60(b)(4)–(6): “within a reasonable time”

(4) judgment is void

(5) judgment has been satisfied, released, or discharged; it's based on a rev'd or vacated judgment; or applying it prospectively is no longer equitable

(6) catch-all: “any other reason that justifies relief”

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First appeared as part of the conference materials for the
33rd Annual Conference on State and Federal Appeals session
"Under-Utilized Procedural Tools"