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Mandamus: A Look Behind the Curtain

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Procedures for Original Proceedings and Emergency Relief in the Supreme Court of Texas

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I. INTRODUCTION[1]

Original proceedings before the Texas Supreme Court include requests for writs of mandamus, habeas corpus, prohibition, injunction, or quo warranto. Requests for mandamus relief are the most common original proceeding in the Supreme Court of Texas. In fiscal year 2020, the Supreme Court[2] received more than 320 petitions in original proceedings. More than 95% of those petitions sought mandamus relief. This paper addresses: (1) the requirements for filing an original proceeding in the Supreme Court; (2) how petitions in original proceedings, and any accompanying requests for emergency and temporary relief, are handled by the Court; and (3) best practices when seeking this extraordinary relief from the Court.

Blake Hawthorne, the Clerk of the Court, has drafted an extensive guide to the Court's internal operating procedures with regard to all filings. The procedures can be found on the Court's website at: http://www.txcourts.gov/media/1438423/suprem e-court-of-texas-internal-operating-procedures.pdf. This guide is an invaluable resource and should be read in conjunction with this paper before initiating an original proceeding at the Court. Where appropriate, I have referenced these procedures throughout the paper as a source of additional information for the reader.

II. REQUIREMENTS FOR SUBMITTING ORIGINAL PROCEEDINGS AND REQUESTS FOR EMERGENCY RELIEF

A. Petitions in Original Proceedings

1. Basic filing requirements

All original proceedings filed in the Supreme Court must adhere to the rules applicable to appellate filings generally. *See* TEX. R. APP. P. 9.1–9.10. These rules dictate the required form of the petition, the number of copies required, and other guidelines regarding service and signing. Failure to follow these rules may result in the Court striking the petition. *Id.* 9.4(k). The same rules generally apply to motions in original proceedings as well.

2. Contents of petition

In original proceedings, the party seeking relief in the appellate court is the "relator." TEX. R. APP. P. 52.2. The person against whom relief is sought, whether a judge, court, tribunal, officer, or other government official, is the "respondent" in all original proceedings other than habeas corpus. *Id.* A person whose interest would be directly affected by the relief sought is a "real party in interest" and is a party to the case. *Id.*

An original proceeding is captioned "*In re* [name of relator]." *Id.* 52.1. The petition must contain the following sections and information, under headings of the same name and in the order indicated:

Identity of Parties and Counsel. The petition must provide a complete list of all parties, and the names and addresses of all counsel. *Id.* 52.3(a). Now that the Supreme

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[1] This article reflects solely the author's views and not necessarily those of the Supreme Court of Texas. It is an update to an article written by two of the Court's previous Mandamus Attorneys Peter Maguire and

Martha G. Newton, who is currently Staff Attorney to Chief Justice Nathan Hecht.

[2] All references to the "Supreme Court" or "the Court" in this paper are to the Supreme Court of Texas.

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