

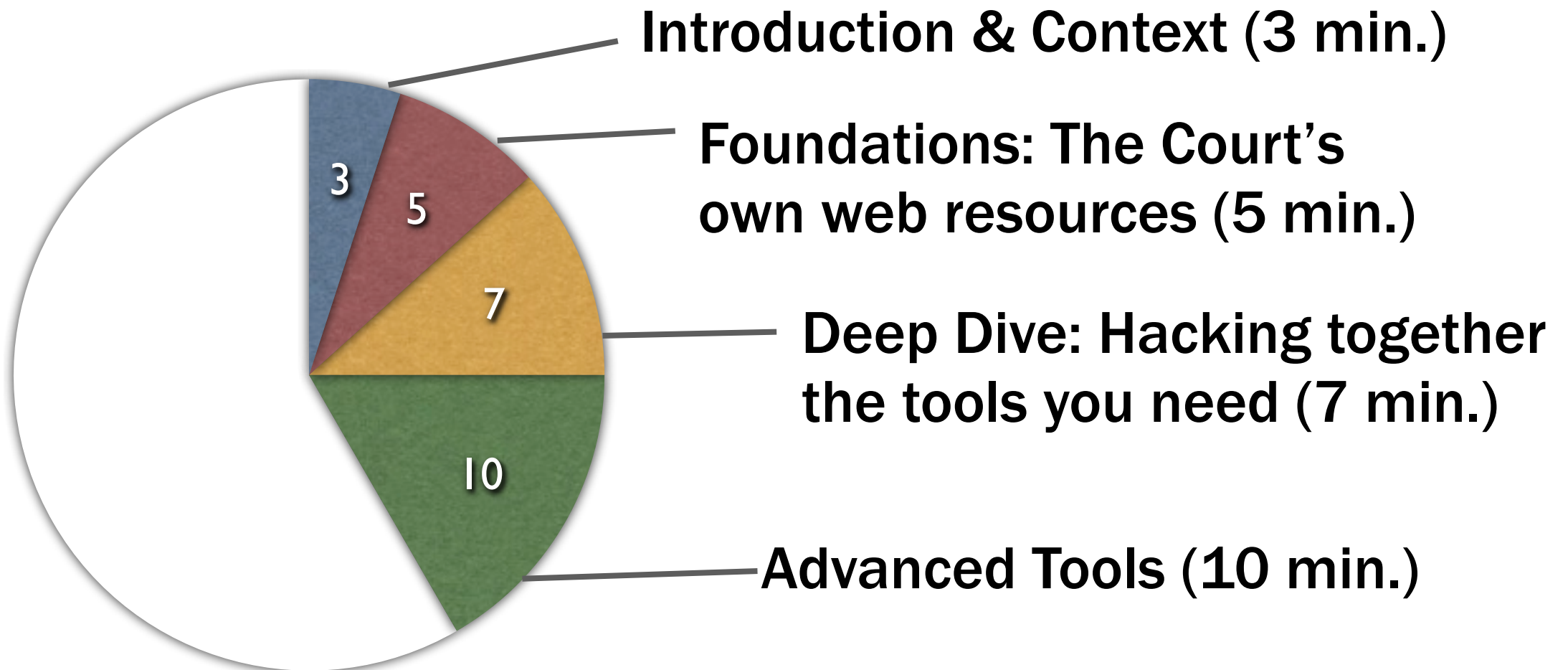
# **Electronic Resources**

## **for Texas Supreme Court Practice**

**Don Cruse**  
**LAW OFFICE OF DON CRUSE**

**don@doncruse.com**  
**<http://www.scotxblog.com>**

# The Plan



**If you see something on a slide... don't scramble to write it down. Just email me later for the slide deck.**

# The Two Faces of “Electronic Resources”



```
<div id="blue">
<h2>Recently Released Orders & Opinions</h2>
</div>
<br />

<div id="orders">
<ol>
<li><a href="2011/apr/040511.htm">April 05, 2011</a></li>
<li><a href="040111.asp">April 01, 2011 - Weekly Orders</a></li>
<li><a href="2011/mar/032511.htm">March 25, 2011 - Weekly Orders</a></li>
<li><a href="2011/mar/032111.htm">March 21, 2011</a></li>
<li><a href="031811.asp">March 18, 2011 - Weekly Orders</a></li>
</ol>
</div>

<br /><br />

<div id="orders">
<h3>2011</h3>
<p>
<a href="jan11.asp">January</a> |
<a href="feb11.asp">February</a> |
<a href="mar11.asp">March</a> |
```

# The Two Faces of “Electronic Resources”

**Case Information:**

Case Number:	10-0100
Date Filed:	2/8/2010
Case Type:	PETITION FOR REV
Style:	ALONSO CHAPA
v.:	HUE NGUYEN AND SOUTHWEST NATIONAL BA

**Case Events:**

Date	Event Type	Description
8/15/2010	Case stored in record room	
8/3/2010	Notice sent to Court of Appeals	
5/26/2010	Motion for Rehearing - Disposed	Indicates fi
5/8/2010	Phone call from Clerk's Office	Petitioner
4/27/2010	Case forwarded to Court	
4/22/2010	Motion for Rehearing - Filed	Rehearing
4/2/2010	Petition for Review disposed	Indicates fi
3/3/2010	Case forwarded to Court	
3/1/2010	additional copies received	Responden
2/25/2010	Response to Petition for Review waived	Responden
2/25/2010	Phone call from Clerk's Office	Petitioner
2/8/2010	Petition for Review filed	Petitioner
2/8/2010	Appendix Filed	Petitioner

```
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  <casetype>PETITION FOR REV</casetype>
  <coa-justice>Honorable Adele G. Hedges</coa-justice>
  <coa-number>14-08-00634-CV</coa-number>
  <created-at type="datetime">2010-02-09T03:17:01-06:00</created-at>
  <coa-disposition>Aff. (part)Re</coa-disposition>
  <redstyle>HUE NGUYEN AND SOUTHWEST NATIONAL BANK</redstyle>
  <trial-court>269th District Court</trial-court>
  <updated-at type="datetime">2010-06-16T02:45:34-05:00</updated-at>
  <coa-district>14</coa-district>
  <web-filing>31252</web-filing>
  <county>HARRIS</county>
  <id type="integer">16064</id>
  <datefiled type="date">2010-02-08</datefiled>
  <trial-judge>Honorable John T. Woodridge</trial-judge>
  <case-stared>6/15/2010</case-stared>
  <doCKET-no>10-0100</doCKET-no>
</doCKET>
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  <case-event>
    <created-at type="datetime">2010-02-09T03:17:01-06:00</created-at>
    <event-url>EventInfo.asp?EventID=553899</event-url>
    <event-description>Appendix to Brief filed</event-description>
    <updated-at type="datetime">2010-02-09T03:17:01-06:00</updated-at>
```



Knowing a little about  
what's *really* down there  
can make electronic  
resources more useful.



# **Starting Point: What the Court Puts Online**

# When I Was a Law Clerk

*Civil Legal Services to the Poor*  
[WordPerfect | HTML](#)

## **STATE OF THE JUDICIARY**

Address to the Seventy-Sixth Legislature  
Thomas R. Phillips, Chief Justice, Supreme Court of Texas  
March 29, 1999

[Search the  
Appellate Court  
Index](#)

[Opinions](#)

[Rules](#)

[Justices](#)

[Filing Fees](#)

[Submission  
Schedule](#)

The Supreme Court of Texas is composed of a Chief Justice and eight justices. It has statewide, final appellate jurisdiction in all civil and juvenile cases. Most of the cases heard by this Court are appeals from an appellate ruling by one of the intermediate Courts of Appeals. The Supreme Court also has the authority to determine certain legal matters over which no other court has jurisdiction and to carry out the responsibilities of the court.

In addition to its adjudicative functions, the Supreme Court has many administrative duties. It is responsible for the efficient operation of the Texas Judicial System. The Court makes the rules of practice and procedure governing trials and appeals in civil and juvenile cases in the State, the rules of administration for the Texas Judicial System, and the rules for the operation of the state Office of Court Administration, the Commission on Judicial Conduct, the State Bar of Texas, and other state agencies in the judicial branch of government. An important administration function of the Supreme Court is the transfer of cases between the fourteen Courts of Appeals to obtain a more equal distribution of workload in those courts.

The Court disposed of, or otherwise acted upon a total of 3,037 matters passed on in fiscal year 1997.

**Current opinions are uploaded by 5:00pm cst of release date.**

[Online Download Area](#)

For further information, please contact the Clerk's Office at (512) 463-1312.

[Procedure and Rules Revisions](#)

# Since that time, the Court has added docket events, recorded arguments, and filed briefs



online docket and casemail



2004

downloadable audio



2007

webcasts



2008

transcripts



2001

only in argued cases



2004

requested with merits briefs



2010

mandatory with every petition & brief



# The Current Home Page

The screenshot shows the homepage of the Supreme Court of Texas. At the top, there is a navigation bar with links for "Texas Courts Online", "Clerk's Office", "Orders & Opinions", "Rules", "Court Calendar", and "Links". The main heading reads "Welcome to the Supreme Court of Texas" with "Austin, Texas" below it. A central box contains information about electronic filing, effective March 28, 2011, and provides instructions for both electronic and traditional paper filing methods. A sidebar on the right contains sections for "General Information", "Case Information", "Case Mail", and "Texas Appellate Courts". At the bottom left, there is a photograph of the court's justices and a brief description of the court's role.

**Texas Courts Online** | **Clerk's Office** | **Orders & Opinions** | **Rules** | **Court Calendar** | **Links**

## Welcome to the Supreme Court of Texas

Austin, Texas

Effective March 28, 2011, you may electronically file documents, pay your fees, and serve opposing counsel using the [Texas.gov](#) electronic filing system. To use the electronic filing system you must first choose an [electronic filing service provider](#) and register. Please remember to send two paper copies of your filing to the Court when you use the electronic filing system.

If you choose to file using the traditional paper filing method, you must still e-mail electronic copies of petitions, responses, replies, briefs on the merits, amicus briefs, post-submission briefs, motions for rehearing, and emergency motions to the Clerk of the Court on the same day that the paper copies are filed. The electronic copies must be e-mailed to [scbriefts@tscourts.gov](mailto:scbriefts@tscourts.gov).

For more details, see the [Electronic Copy and Electronic Filing Rules for the Supreme Court of Texas](#). For more information about creating electronic briefs, please read this [Guide to Creating Better Electronic Briefs](#). You can also watch a [video](#) that shows step-by-step instructions for using Adobe Acrobat to create an electronic brief.

### General Information

- Search Courts Site
- Type Search Word
- Supreme Court Home Page
- Frequently Asked Questions
- Rules & Standards
- Orders & Opinions
- Clerk's Office
- About the Court
- Contact | Justices | Employment | History | Court News & Advisories | RSS Information | Podcasts
- Court Calendar
- Permanent Judicial Commission for Children, Youth & Families

### Case Information

- Case Search
- Opinion Search
- Electronic Briefs
- Oral Argument Information
- Oral Argument Audio
- Oral Argument Video

### Case Mail

- Track Cases or Released Opinions
- Install New Security Certificate!**
- [My Account](#) | [Case Tracking](#) | [Opinion Tracking](#) | [Register](#) | [Basics](#) | [FAQs](#)

### Texas Appellate Courts

- The Supreme Court of Texas
- Court of Criminal Appeals

Composed of the Chief Justice and eight Justices, the Supreme Court of Texas is the court of last resort for civil matters in the State of Texas. The Supreme Court is in Austin, next to the State Capitol.



# Schedules, Rules, and Order Lists

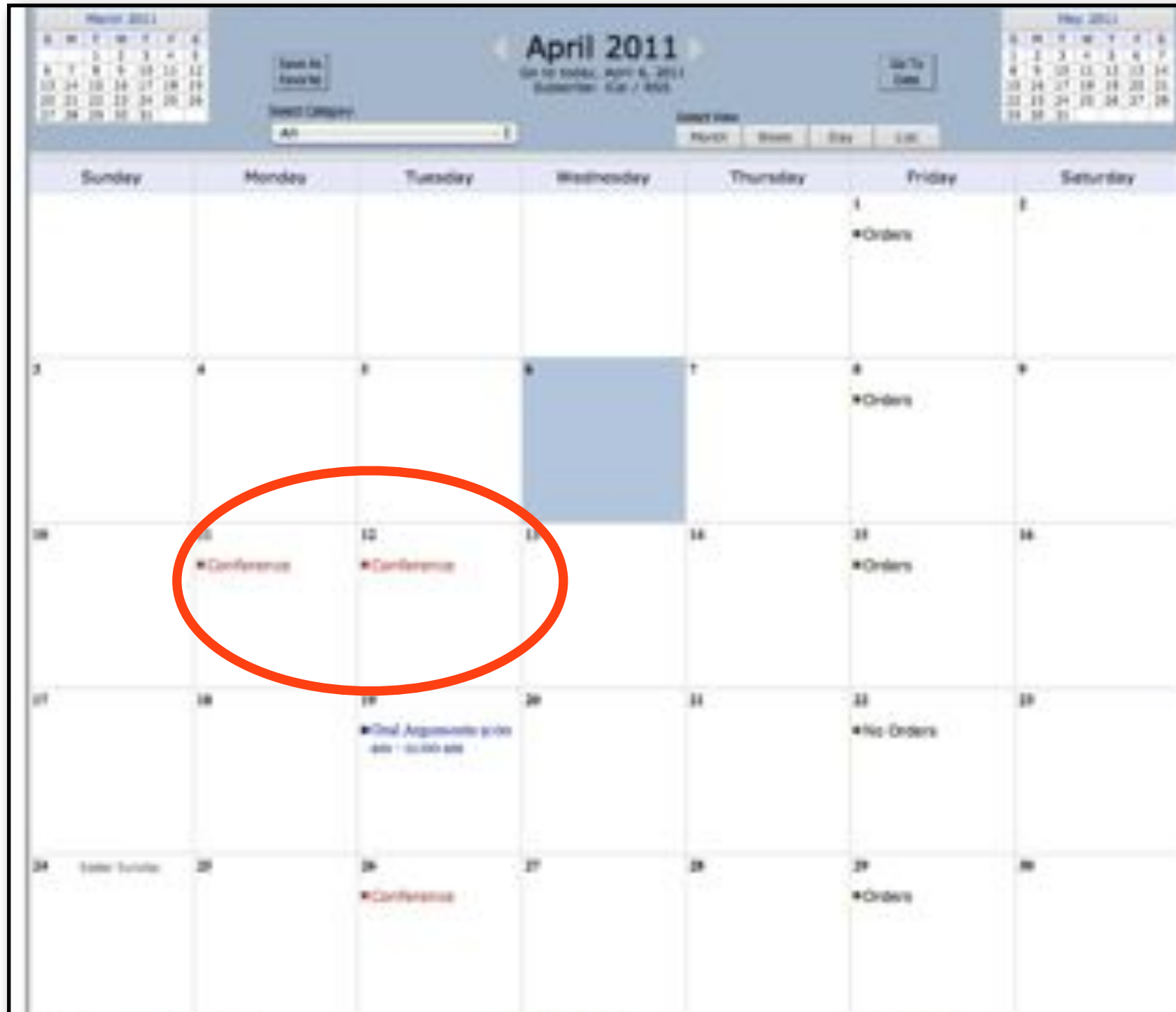
**General Information**

- [Search Courts Site](#)  
Type Search Word
- [Supreme Court Home Page](#)
- [Frequently Asked Questions](#)
- [Rules & Standards](#)
- [Orders & Opinions](#)
- [Clerk's Office](#)
- [About the Court](#)
- [Contact](#) | [Justices](#) | [Employment](#) |  
[History](#) | [Court News & Advisories](#) |  
[RSS Information](#) | [Podcasts](#)
- [Court Calendar](#)
- [Permanent Judicial Commission for  
Children, Youth & Families](#)

Two red arrows point from the right side of the image to the 'Orders & Opinions' and 'Court Calendar' menu items.



# Internal Calendar





## Case Information

- Case Search
- Opinion Search
- Electronic Briefs
- Oral Argument Information
- Oral Argument Audio
- Oral Argument Video



# Electronic Briefs

Rule changes are making this database even more useful.

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<http://supreme.courts.state.tx.us/ebriefs/...>

# Oral Argument Audio => Transcripts, Too

October 13, 2010 [[Submission Schedule PDF](#)]

Case No.	Styles (click on style to view case details)	File Size	Listen	Read
09-0544	<a href="#">Jeremy Molinet v. Patrick Kimbrell, M.D. and John Horan, M.D.</a>	42.0 MB		
09-0753	<a href="#">James Derwood Iliff v. Jerilyn True Iliff</a>	45.8 MB		
09-0770	<a href="#">City of Houston v. Steve Williams, et al.</a>	40.2 MB		

[http://supreme.courts.state.tx.us/  
oralarguments/transcripts/...](http://supreme.courts.state.tx.us/oralarguments/transcripts/...)



# Oral Argument Video => Issue Summaries

Share | E-mail

## Case Summaries

---

### ORAL ARGUMENT SUMMARIES FOR OCTOBER 12-14, 2010

**Texas Supreme Court advisory**  
Contact: Oster McCarthy,  
Staff Attorney for Public Information  
(512) 463-1441 or  
[oster.mccarty@courts.state.tx.us](mailto:oster.mccarty@courts.state.tx.us)

The first argument begins at 9 a.m. in the courtroom in Austin. Each side will have 20 minutes for argument.

*This advisory serves only as an abbreviated guide to oral argument. Summaries are prepared by the Court's staff attorney for public information and reflect his judgment alone on facts and legal issues and in no way represent the Court's opinion about case merits.*


- Home
- April 2011
- March 2011
- February 2011
- January 2011
- December 2010
- November 2010
- October 2010**
- September 2010
- April 2010
- March 2010
- February 2010
- January 2010
- December 2009

### ARGUMENTS SET FOR TUESDAY, OCTOBER 12

**09-0398**  
Reid Road Municipal Utility District No. 2 v. Speedy Stop Food Stores Inc. Ltd.  
from Harris County and the 14th District Court of Appeals, Houston  
For petitioner: C. Charles Dippel, Houston  
For respondent: Bill Russell, Victoria

The principal issue is whether a corporate agent under the property-owner rule - allowing a property owner to testify to its value even if unqualified to assess property belonging to someone else - is competent to testify to corporate property's value. Speedy Stop challenged a \$9,300 condemnation award for a water easement, putting on as a valuation expert the general partner's vice president charged with property acquisitions. He testified to a \$62,000 property-value loss. The trial court granted a no-evidence summary judgment for the utility district, ruling that the vice president, who was not a broker or licensed appraiser, could not testify because the property-owner rule did not apply to a corporate entity. The court of appeals reversed. This advisory serves only as an abbreviated guide to oral argument. Summaries are prepared by the Court's staff attorney for public information and reflect his judgment alone on facts and legal issues and in no way represent the Court's opinion about case merits.

[Stats](#)  
[Court of appeals' opinion](#)  
[Cases \(Beymore\)](#)  
[Webcast](#)

Transcript 

- December 2010
- November 2010
- October 2010
- September 2010
- March 2010
- February 2010
- January 2010
- December 2009
- November 2009
- October 2009
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- March 2009
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- January 2009
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- December 2007
- November 2007
- October 2007
- September 2007
- April 2007
- March 2007

<http://www.stmarytx.edu/law/index.php?site=supremeCourtWebcastsCaseSummaries>

## Case Mail

- **Track Cases or Released Opinions**  
**Install New Security Certificate!**

[My Account](#) | [Case Tracking](#) | [Opinion](#)  
[Tracking](#) | [Register](#) | [Basics](#) | [FAQs](#)



# Why Stop Here?

**If you already know the name of the case you want to follow, the Court's website does the trick.**

**But as an appellate practitioner — particularly someone attending this conference — you may want to look laterally across the docket, to find connections between other pending cases and your own.**



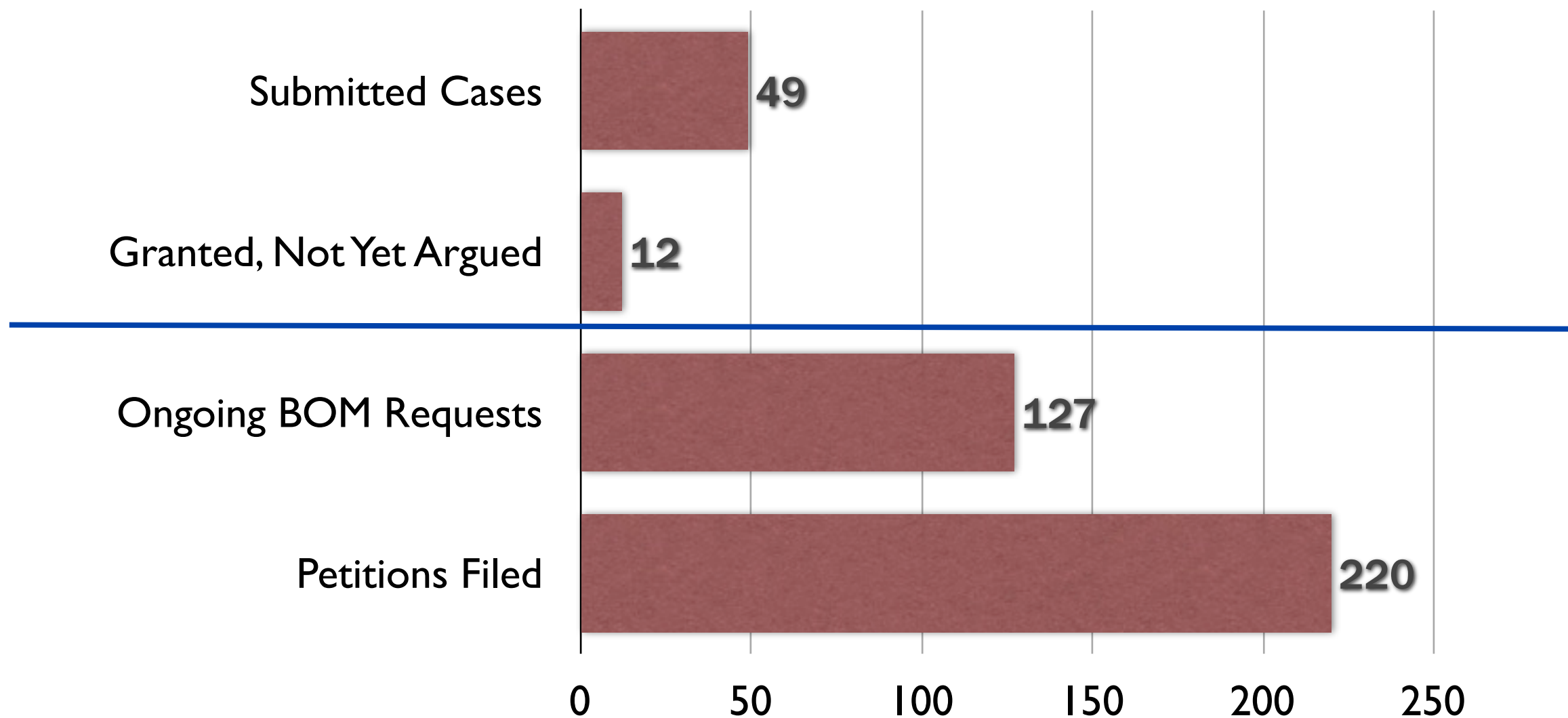
“We have tried to become as transparent as we can . . . so that you’ve got a pretty good idea of what our docket is...”

“Now you can be an advocate..., and say that this is a better case... or that this case has complexities. But become a student of the docket.”

**Chief Justice Wallace Jefferson**  
*An Evening with the Supreme Court of Texas (2010)*



**The challenge is that, at any given time, most of the docket is below the water line.**



**Snapshot of cases active as of April 14, 2011**

# **Deep Dive: How To Hack Your Own Tools**



# No Programming Required

(Not for you, anyway.)

Knowing how the Court's  
online data is arranged

+

Knowing how to fine-tune  
a search engine

---

=

A custom tool to answer a  
narrow question

# Electronic Briefs

Knowing how the Court's  
online data is arranged

`http://www.supreme.courts.state.tx.us/ebriefs/`

Knowing how to fine-tune  
a search engine

- Search within a specific website (site:)



Google allows you to specify that your search results must come from a given website. For example, the query [ `iraq site:nytimes.com` ] will return pages about Iraq but only from nytimes.com. The simpler queries [ `iraq nytimes.com` ]

`site://www.supreme.courts.state.tx.us/ebriefs/`

# Live Demo

# Pro Tips

Google Instant (“Instant is on”) helps when narrowing concepts

Use the magnifying glass. The titles of these documents are often garbled. But the magnifying glass reveals the cover page.

Date-limiting your search. Google offers this under the “More Search Tools” option. But... its algorithm for determining the date of these briefs doesn’t work well and may limit hits.

Add subdirectories to focus the search. Although Google can’t tell quite when a brief was filed, the Court helpfully arranges the briefs so you can filter by docket number. Just add “/10” to the site: parameter.



# Search Is for Finding Things, Not for Disproving Things

Data set completeness: Need to understand limitations of the raw data. (For example, electronic brief data is much better for 2010-2011 because of rule changes.)



Index completeness: Has Google actually spidered the whole area of the site you're searching? Does it have a good set of text to start with — are the briefs in native PDF?

"Similar" results might have been omitted at first:

*In order to show you the most relevant results, we have omitted some entries very similar to the 18 already displayed.*

*If you like, you can [repeat the search with the omitted results included.](#)*

# **Advanced Tools: Building on the Work of Others**


**Feeds:**  
**Lazy in a Good Way** 



# The Court's Own Feeds

- **General News & Announcements (including orders lists)** 

<http://www.supreme.courts.state.tx.us/scnews.xml>

- **Oral Argument MP3 Audio (a podcast!)** 

<http://www.supreme.courts.state.tx.us/podcasts.xml>

- **Osler's weekly email contains case and issue summaries.**

Email him at: [osler.mccarthy@courts.state.tx.us](mailto:osler.mccarthy@courts.state.tx.us)

# DocketDB

**Began as a tool to monitor briefing requests & long-pending petitions (the submarine docket).**

**A place to weave together news articles, blog posts, and tagging information about pending cases.**

**Provides some RSS feeds for the public.**

**Deeper database access and tracking are for registered users. (The raw database is still there for me to answer unusual questions.)**

# DocketDB: New Petitions

## Data Feeds and Other Resources for the Public

We open some of our tools to the public.

[Recent Opinions and Vote Breakdowns](#)

[New Requests for Full Merits Briefing](#)

[New Petitions Filed With the Court](#)

[Cases Broken Down by Court of Appeals](#)

[Community-Driven List of Pending Issues](#)

[Top Amicus Curiae Groups and Cases](#)

[Cases Mentioned in News Stories and Blogs](#)

## Cases With Recently Filed Petitions for Review

Petitions filed within the past 10 days

[Subscribe to RSS Feed](#)

These case files have the newest petitions filed in the Court. Within a day or two, each petition should be available as a PDF on the detail page. Subscribers can browse the entire docket and easily choose cases to track.

### April 11, 2011

**SUSAN COMBS, COMPTROLLER OF PUBLIC ACCOUNTS OF THE STATE OF TEXAS, AND GREG ABBOTT, ATTORNEY GENERAL OF THE STATE OF TEXAS v. ROARK AMUSEMENT AND VENDING, L.P., No. 11-0261.**

*1 days since the petition was filed on April 11, 2011*  
1 OOA Opinion

**LEOPOLD MALACHOWITZ v. EXPO MOTORCARS, L. P., EXPO HOLDINGS, L. P. AND EXPO MOTORCARS, L. L. C., No. 11-0258.**


*1 days since the petition was filed on April 11, 2011*  
1 OOA Opinion

### April 8, 2011

**IN RE MARCUS D. LAMB AND WORD OF GOD FELLOWSHIP, INC., D/B/A DAYSTAR TELEVISION NETWORK, No. 11-0257.**

*4 days since the petition was filed on April 8, 2011*  
1 OOA Opinion

**ILR CRANE & EQUIPMENT, LLC v. RIVERSIDE EXPORTS, INC., No. 11-0253.**

*4 days since the petition was filed on April 8, 2011*  
1 OOA Opinion 1 Brief Online 

**IN RE THE OFFICE OF THE ATTORNEY GENERAL, No. 11-0255.**

*4 days since the petition was filed on April 8, 2011*



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*1 days since the petition was filed on April 11, 2011*

1 OOA Opinion

### April 8, 2011


**IN RE MARCUS D. LAMB AND WORD OF GOD FELLOWSHIP, INC., D/B/A DAYSTAR TELEVISION NETWORK, No. 11-0257.**

*4 days since the petition was filed on April 8, 2011*

1 OOA Opinion

**ILR CRANE & EQUIPMENT, LLC v. RIVERSIDE EXPORTS, INC., No. 11-0253.**

*4 days since the petition was filed on April 8, 2011*

1 OOA Opinion 1 Brief Online 

**IN RE THE OFFICE OF THE ATTORNEY GENERAL, No. 11-0255.**

*4 days since the petition was filed on April 8, 2011*

# DocketDB: Briefing Requests

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[Cases Mentioned in News Stories and Blogs](#)

## Recent Requests for Full Briefing

Requests for briefing on the merits within the past 31 days

[Subscribe to RSS Feed](#)

A request for merits briefing takes a vote of three Justices and signals that the Court will devote the staff time required to prepare an internal study memo.

**April 1, 2011**

### **IN RE ASTEC UNDERGROUND, INC., No. 11-0084.**

11 days since full briefing was requested on April 1, 2011

[discovery, expert disclosure](#) [what's this?](#)

1 COA Opinion 4 Briefs Online 

### **SUSAN POEHLER v. AMERICAN HOME ASSURANCE COMPANY, No. 10-0781.**

11 days since full briefing was requested on April 1, 2011


[workers compensation, spinal surgery](#) [what's this?](#)

2 COA Opinions 3 Briefs Online 

### **IN RE LARRY CHARLES FULLER, No. 11-0018.**

11 days since full briefing was requested on April 1, 2011

[wrongful imprisonment](#) [what's this?](#)

3 Briefs Online 

### **IN THE MATTER OF M.P.A., No. 10-0859.**

11 days since full briefing was requested on April 1, 2011

[juvenile justice, actual innocence](#) [what's this?](#)

1 COA Opinion 4 Briefs Online 



# DocketDB: Related News Items

## Data Feeds and Other Resources for the Public

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[Top Amicus Curiae Groups and Cases](#)

[Cases Mentioned in News Stories and Blogs](#)

## Cases In the News

Recent articles and blog posts about Texas Supreme Court cases

[Subscribe to RSS Feed](#)

### Supreme Court of TX Holds TAA Applies Where No Evidence to the Contrary Demonstrated

Disputing (April 5, 2011)

- *VERONICA ELLIS AND PACESETTER BUILDERS, INC. D/B/A COLDWELL BANKER PACESETTER STEEL REALTORS v. DR. RON AND TANA SCHLIMMER*, No. 10-0243

### Who can sue when commercial lenders back out; two grants about whether the med-mal statute covers assault [Apr. 1, 2011]

SCOTXblog (April 1, 2011)

- *VERONICA ELLIS AND PACESETTER BUILDERS, INC. D/B/A COLDWELL BANKER PACESETTER STEEL REALTORS v. DR. RON AND TANA SCHLIMMER*, No. 10-0243
- *JOSE CARRERAS, M.D., P.A. v. CARLOS FRANCISCO MARROQUIN, ET AL.*, No. 09-0857
- *BASIC CAPITAL MANAGEMENT, INC., AMERICAN REALTY TRUST, INC., TRANSCONTINENTAL REALTY INVESTORS, INC., CONTINENTAL POYDRAS CORP., CONTINENTAL COMMON, INC., AND CONTINENTAL BARONNE, INC. v. DYNEX COMMERCIAL, INC. AND DYNEX CAPITAL, INC.*, No. 08-0244
- *MATTHEW W. WASSERMAN, M.D. v. CHRISTINA BERGERON GUGEL*, No. 10-0513
- *TEXAS WEST OAKS HOSPITAL, LP AND TEXAS HOSPITAL HOLDINGS, LLC v. FREDERICK WILLIAMS*, No. 10-0603

### Restatement of water rights passes senate

Lubbock Avalanche-Journal (March 31, 2011)

- *THE EDWARDS AQUIFER AUTHORITY AND THE STATE OF TEXAS v. BURRELL DAY AND JOEL MCDANIEL*, No. 08-0964



# DocketDB: Recent Opinions

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Cases Mentioned in News Stories and Blogs

## Opinions from February 25, 2011

**EBERHARD SAMLOWSKI, M.D. v. CAROL WOOTEN, No. 08-0667.**

*sufficiency of expert report, medical malpractice*



Opinion of the Court



Concurring



Concurring and Dissenting



Dissenting

*Samlowski v. Wooten; Thirty-Day Extensions Texas Med Mal Blog (March 22, 2011)*

*Justices split three ways in decision to remand malpractice case Southeast Texas Record (March 9, 2011)*

*Four opinions, three grants (including appellate attorneys fees and home-equity lending) (Feb. 25, 2011) SCOTXblog (February 27, 2011)*

*On the docket: Suing to enforce a city referendum; med mal experts; jurisdiction over corporate officers SCOTXblog (November 18, 2009)*

*Order List for June 18, 2009 SCOTXblog (June 18, 2009)*

**DEBBIE STOCKTON, AS PARENT AND NEXT FRIEND OF WILLIAM STOCKTON, A MINOR v. HOWARD A. OFFENBACH, M.D., No. 09-0446.**



Opinion of the Court

*Four opinions, three grants (including appellate attorneys fees and home-equity lending) (Feb. 25, 2011) SCOTXblog (February 27, 2011)*

*Time nearly up on malpractice suit against missing doctor Austin American-Statesman (March 27, 2010)*

**TURTLE HEALTHCARE GROUP, L.L.C. D/B/A FRED'S PHARMACY v. YOLANDA HIGUERA LINAN, INDIVIDUALLY AND AS THE NATURAL PARENT OF MARIA YOLANDA LINAN AND GERARDO LINAN INDIVIDUALLY AND AS REPRESENTATIVE OF THE ESTATE OF MARIA YOLANDA LINAN**

# **Analytical Tools: When You Need To Dig Into the Docket**

# The Court's Relationship with Westlaw

From Blake's 2009 Presentation:

## Oral Argument Transcripts

- Created by Westlaw using voice recognition software
- Proofed by Westlaw subcontractor
- Proofed by Supreme Court's executive assistants
- Changes returned to Westlaw
- Redacted transcripts posted to the Court's website
- Usually takes three weeks
- Transcripts available sooner at Westlaw's [TX-ORALARG](#) database





# The (Elusive) TX-ORALARG Database

From Blake's 2009 Presentation:



The screenshot shows a Westlaw web browser interface displaying an oral argument transcript. The transcript is titled "In Re: Morgan Stanley and Co. Incorporated, Successor to Morgan Stanley BNY, Inc." and is from the Supreme Court of Texas. The transcript includes the following text:

**CHIEF JUSTICE JEFFERSON:** So you look at it in terms of protection and I see that argument going to the merit of the cases that said **arbitration** isn't a detriment necessarily, it's just a forum, it's a different way to resolve the litigation. So, it's not sure I understand that argument. I am curious about the "void" versus "voidable" you-- the opposition says, no, we're pretty clear in Texas that this is a voidable type issue, not void and where, where do you [inaudible] about --

**MR. FRAZIER:** There are two, two cases in the footnote three of our brief that have held that contracts the court of in federal cases that contracts within coverage are void ab initio and so we have some disparity. But, I want to go back and re-emphasize that the United States Supreme Court has held, in terms of the FAA, the void versus voidable issue is immaterial and every court that has addressed mental capacity since [Spahr v. Secor \(130 F.3d 1286\)](#) and since [Buckeye \(138 U.S. 992\)](#) has held that that challenge goes to the court. Now, I know [Pruitt v. Secor \(138 F.3d 992\)](#) is out there and hasn't been addressed, but that's the fifth circuit case that Judge Jones wrote. That was the first case that we have found that has a, that addressed the mental capacity the assent based challenge to an FAA arbitration agreement. They had nothing to work with. And so they, they took the [Pruitt v. Secor \(138 U.S. 992\)](#) template, placed it on the defense at hand, mental capacity, and saw that it was made to the entire contract, not just the arbitration clause, and therefore held that [Pruitt v. Secor \(138 U.S. 992\)](#) applies. If it wasn't to the clause by itself, therefore, it goes to arbitration. But so years have passed since [Pruitt v. Secor \(138 F.3d 992\)](#)...

**JUSTICE HECHT:** They were-- it seems, it seems to me the panel was aware of the clear clause Judge Dennis wrote in his concurrence that there are all these other issues but we're not getting into that. He seemed to be worried that maybe the majority was. So at least they did seem to have had in, in mind the problem.

**MR. FRAZIER:** They, they may have. They were the first to apply that, and since [Pruitt v. Secor \(138 F.3d 992\)](#), which was in August 2002, ten months later we have [Spahr v. Secor \(130 F.3d 1286\)](#), which the court is well aware and the briefs were laid out, contains facts virtually identical to this case, and that's where the court said, "we cannot logically apply [Pruitt v. Secor \(138 U.S. 992\)](#) to a status based defense such as incapacity." So we have-- we had the [Spahr v. Secor \(130 F.3d 1286\)](#) --

**JUSTICE BRISTER:** but that's-- but that's not what [Buckeye \(138 U.S. 992\)](#) says.

**MR. FRAZIER:** [Buckeye \(138 U.S. 992\)](#), then we have [Buckeye \(138 U.S. 992\)](#).

**JUSTICE BRISTER:** It just, it says, we're not telling it.

**MR. FRAZIER:** Well, [Buckeye \(138 U.S. 992\)](#) they set out that in a footnote that there is a distinction-- that there is a distinction --



# The TX-SCT-BRIEF Database

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# What Issues Are Pending?

- ~~*Hatchell Report*~~
- Osler McCarthy's issue summaries in argued cases are collected on the St. Mary's site. As of today, they are not (easily) searchable.
- Creative searching of the “/ebriefs” folder for recent petitions.
- DocketDB's “issues granted” page is still in the early stages.

# DocketDB

## Issues in granted petitions in the Supreme Court of Texas

Issues in cases that the Court has chosen for review  
where it has not yet rendered a decision.

Filter these tags

**Data Feeds and  
Other Resources  
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tools to the public.

Recent Opinions and  
Vote Breakdowns

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Top Amicus Curiae  
Groups and Cases

Cases Mentioned in  
News Stories and Blogs



**A work in progress, designed to benefit  
from community contributions.**

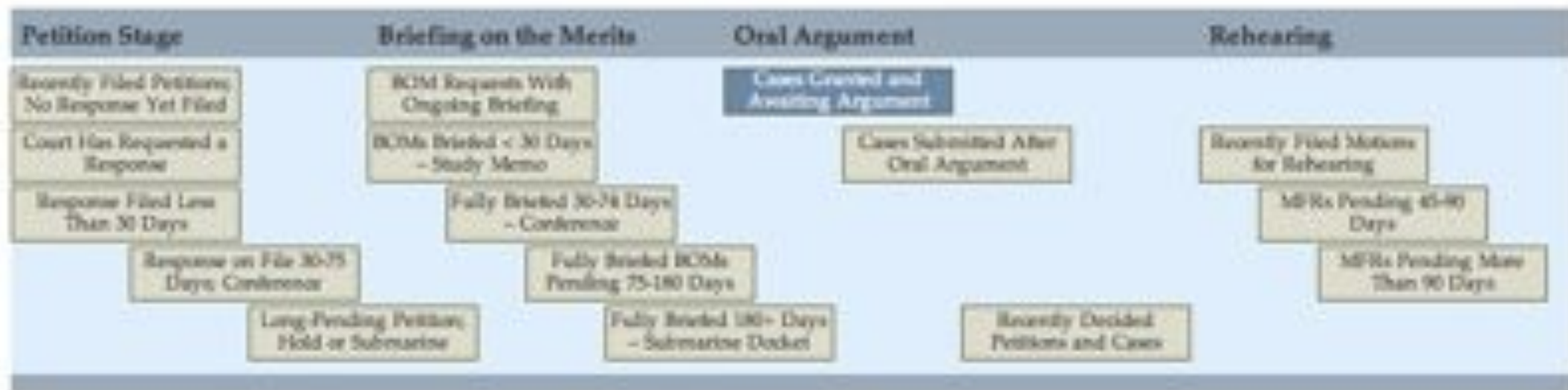
# DocketDB

*A few highlights...*



# Stages: Where Cases Stand

## “Where Do Cases Stand on the Texas Supreme Court Docket?”



## Cases Being Set for Oral Argument

What does it mean to be at this stage?

**BASITH GHAZALI, M.D. v. PATRICIA BROWN**, No. 10-0232.

65 days since review was granted on February 8, 2011

expert report, medical malpractice

1 COA Opinion 5 Briefs Online

**CAROL SEVERANCE v. JERRY PATTERSON, COMMISSIONER OF THE TEXAS GENERAL LAND OFFICE; GREG ABBOTT, ATTORNEY GENERAL FOR THE STATE OF TEXAS; AND KURT SISTRUNK, DISTRICT ATTORNEY FOR THE COUNTY OF GALVESTON, TEXAS**, No. 09-0387.

34 days since review was granted on March 11, 2011

Open Beaches Act

# Opinion Authorship

## Opinion Statistics

Fiscal Year 2011

Sept. 2010 through Aug. 2011

*Click on a number for more details*

Justice	Majority	Per Curiam	Concurring	Dissenting	Concurring & Dissenting	Other
Jefferson	2	?	1	2	0	0
Hecht	5	?	1	0	0	0
Wainwright	6	?	0	1	2	0
Medina	4	?	1	2	0	0
Johnson	5	?	0	3	0	0
Willett	2	?	2	0	0	0
Guzman	4	?	1	0	0	0
Lehrmann	0	?	0	2	0	0
<b>Totals</b>	<b>28</b>	<b>26</b>	<b>6</b>	<b>10</b>	<b>2</b>	<b>0</b>

# Voting Patterns / Analysis

## Texas Supreme Court voting-affinity data for the 2011 fiscal-year term (September 1, 2010 to April 1, 2011)

With At Least One Split Opinion (13)

Agreed in judgment

2011

Refresh

	Hecht	Jefferson	Wainwright	Medina	Green	Johnson	Willet	Guzman	Lehrmann
Hecht		81.8	75.0	75.0	83.3	66.7	91.7	100.0	66.7
Jefferson	81.8		50.0	66.7	83.3	41.7	72.7	77.8	75.0
Wainwright	75.0	50.0		46.2	61.5	84.6	75.0	70.0	38.5
Medina	75.0	66.7	46.2		61.5	38.5	66.7	80.0	92.3
Green	83.3	83.3	61.5	61.5		58.3	91.7	80.0	69.2
Johnson	66.7	41.7	84.6	38.5	58.3		75.0	60.0	30.8
Willet	91.7	72.7	75.0	66.7	91.7	75.0		88.9	58.3
Guzman	100.0	77.8	70.0	80.0	80.0	60.0	88.9		70.0
Lehrmann	66.7	75.0	38.5	92.3	69.2	30.8	58.3	70.0	

Click on any cell above for details about how a pair of Justices voted in this term



# Amicus Filers: Who, When, In What, How

## "Who Is Filing Amicus Briefs To Weigh In On the Texas Supreme Court's Docket?"

Who Is Filing Amicus Briefs?

### Cases with the Most Amicus Appearances in Pending Cases — Overall

Who Is Filing Amicus Briefs?

Amicus Count: 30

CAROL SEVERANCE v. JERRY R. OFFICE; GREG ABBOTT, ATTORNEY GENERAL; GREG SISTRUNK, DISTRICT ATTORNEY  
34 days since review was granted  
Open Beaches Act  
40 Briefs Online 30 Amici

Amicus Count: 22

THE EDWARDS AQUIFER AUTHORITY v. MCDANIEL, No. 08-096-L  
421 days since oral argument  
groundwater, regulatory taking  
54 Briefs Online 22 Amici

within the past 5 weeks

### Cases with the Most Amicus Appearances Arranged by Stage on the Court's Docket

Who Is Filing Amicus Briefs?

Which Cases Have Attracted the Most Amici?

What Stage Are These Cases At?

PFR Stage

11 amicus filers in 7 cases at this stage

LA VILLITA MOTOR INNS, L.V., EXECUTIVE MOTELS OF SAN ANTONIO, INC. AND S.A. SUNVEST HOTELS, INC. v. ORIX CAPITAL MARKETS, LLC, BANK OF AMERICA, N.A., LNR PARTNERS, INC., CAPMARK FINANCE, INC., NICHOLAS M. PYKA AS TRUSTEE, MICHAEL N. BLUE AS TRUSTEE AND GRETA E. GOLDSBY AS TRUSTEE, No. 10-1001.  
13 days since a response was requested on April 1, 2011  
2 COA Opinions 5 Briefs Online 3 Amici

ENBRIDGE PIPELINE (EAST TEXAS) LP. v. AVINGER TIMBER, LLC, No. 10-0950.  
6 days since a response was requested on April 8, 2011  
6 COA Opinions 4 Briefs Online 3 Amici



# **Electronic Resources**

## **for Texas Supreme Court Practice**

**(Send me an email if you want  
the slides or a “cheat sheet.”)**

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