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Notations for Subsequent Histories in Civil Cases

By James Hambleton

(pet. ref'd)
(pet. denied)
et. dismiss'd w.o.j.)
(pet. dismiss'd)
pet. withdrawn)
(pet. abated)
(pet. struck)
(pet. filed)
(no pet. hist.)
(no pet.)
(case dismiss'd)
dismiss'd, judgment vacated)
(case abated)

Subsequent histories¹ have been a part of Texas case citation since the turn of the 20th century.² For most of that time, the information for subsequent histories was gleaned from paper sources, including the *Texas Subsequent History Tables* and *Texas Shepard's Citations*. The subsequent history information available to practitioners from these sources was limited by the controlled set of notations used by legal publishers. With the advent of electronic sources, this set of notations has become inadequate. This article traces the history of civil case notations for subsequent history, explains why this system is no longer adequate, and proposes a revised system of notations.

History

Practitioners extracted information for subsequent histories from tables published initially in the *Southwestern Reporter*³ and the *Texas Reports*.⁴ The first *Complete Texas Writs of Error Table* was issued in pamphlet form in November 1917.⁵ Today the West Group publishes these pamphlets annually as the *Texas Subsequent History Table*.

Subsequent history pamphlets have been kept current by supplementary tables published in the reporters. The first supplement to the first writ table was published in 1918 in the *Southwestern Reporter*,⁶ and updates continue to be published in its successor, *Texas Cases Reporter*. *Shepard's Texas Citations* also includes subsequent history information that is kept current through pamphlet supplementation.

The format for providing subsequent history information in citations has varied over time and from court to court, since neither statute nor court rule has ever set out a required form. Some of the

abbreviations used in citations in courts of appeals opinions to indicate "writ refused" include: "writ refused,"⁷ "writ ref.,"⁸ "wr. ref.,"⁹ "w/r,"¹⁰ "error refused,"¹¹ "error ref.,"¹² "error ref'd,"¹³ and "err. ref."¹⁴ Uniformity in format, however, was encouraged in a 1949 *Texas Bar Journal* article, "Notations on Applications for Writs of Error," that stepped through a history of the different actions on a writ, with suggested abbreviations for each kind of action.¹⁵

Although this *Texas Bar Journal* article spelled out abbreviations for subsequent histories, it provided no guidance on how those abbreviations should be incorporated into citations.¹⁶ The first edition of the *Texas Rules of Form* (the "Greenbook"), published in 1966,¹⁷ addressed this problem. In no uncertain terms, the Greenbook stated, "[a] complete civil appeals citation *must* include the writ-of-error history to determine how the Texas Supreme Court has disposed of the particular case."¹⁸ (emphasis in original) Justice Greenhill, in his

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preface, indicated the Texas Supreme Court's informal approval of the citation format laid out in the Greenbook.¹⁹ The Greenbook also incorporated the 1949 *Texas Bar Journal* article's table of notations.²⁰

While the Greenbook indicated that a court of appeals citation should include the filing, absence, or disposition of an application for writ of error,²¹ in practice only the absence or the final disposition of a writ came to be included in a court of appeals citation. The sources of writ information simply listed the final disposition of any writ filed rather than the procedural history of the filing.²² Practitioners in Texas, then, could locate writ history information using either *Shepard's Texas Citations* or the writ history tables, and, consulting the Greenbook, include this information in courts of appeals citations in a format approved by the Texas Supreme Court.

Current Notation System Inadequacies

The current subsequent history notation system has broken down recently for two reasons. First, many practitioners now retrieve subsequent history information electronically, using either Shepard's online or the West Group KeyCite system. Using either of these two electronic tools for subsequent history information can be confusing because of the richness of the information retrieved. Shepard's online and KeyCite contain the language from the Texas Supreme Court's order lists themselves, and this language includes intermediate procedural history as well as the ultimate disposition of a writ or petition. This language is much more detailed, and uses phrases and words that are not included in the abbreviations used in the paper version of Shepard's or in West's subsequent history tables. For example, after filing, a petition may be abated for bankruptcy, and even after the petition has been granted, the pending case may be abated for bankruptcy as well.²³ Looking in the Greenbook for citation guidance for abatements proves fruitless.

The second complicating factor is that the 1997 revision of the Texas Rules of Appellate Procedure ushered in new terminology with a petition for review system replacing the writ of error system.²⁴ The revision of the rules also introduced some substantive clarifications.²⁵

Finally, new Rule 60.6 empowered the Texas Supreme Court to make any other appropriate order "required by the law and the nature of the case."²⁶ This provision allows the court to dispose of petitions with any kind of nota-

tion required by the appeal, rather than just the notations listed in Rule 56.²⁷ For example, rather than just indicating a petition is "dismissed," the order may indicate that it is "dismissed due to non-payment of fees."²⁸

A second printing of the ninth edition of the Greenbook in 1998 introduced suggested forms of citation for describing the status of petitions for review,²⁹ as well as a table of notations to be used for petitions for review.³⁰ Unfortunately this table of notations is not only incom-

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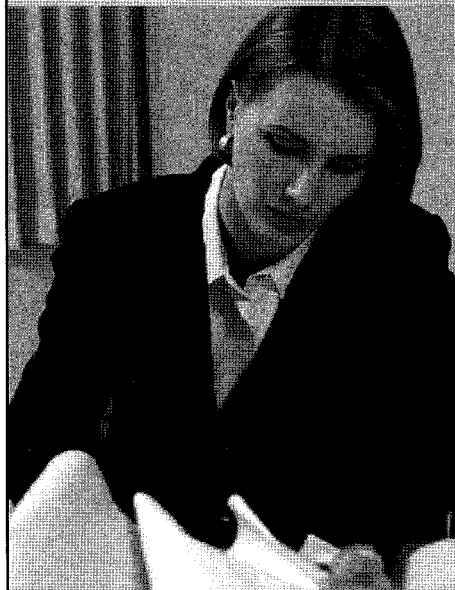
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plete, it is also inaccurate.³¹ Practitioners are left with Texas Supreme Court actions not reflected in the Greenbook's table of notations for subsequent history, and thus with no guidance on a form to be used for these dispositions.³²

Suggested Changes To the Current System

In re-examining subsequent history notations, it is important to keep in mind the purpose of the notation system. Writ and petition history notations indicate the effect of the Texas Supreme Court's action on the weight of authority of the court of appeals' opinion. Although the disposition of an appeal that is not granted generally does not substantively affect the court of appeals' opinion, many legal writers prefer to use as authority opinions that the Texas Supreme Court has reviewed. If the Court has addressed the court of appeals' opinion and the merits of the appeal in its petition disposition,³³ then that court of

appeals' opinion carries more weight than an opinion where the appeal has been dismissed before review or where no appeal was ever filed.

While orders on petitions for review are listed in Rule 56,³⁴ other rules can form the basis of disposition by the Texas Supreme Court. Rule 8.2, for example, provides for the abatement of a petition for an action in bankruptcy.³⁵ Petitions may be withdrawn by the filing party,³⁶ or dismissed by joint motion of the parties.³⁷ The Court may use any notation necessary to clarify its disposition.³⁸

Rule 56 of the Texas Rules of Appellate Procedure³⁹ lists the most common actions that the Texas Supreme Court can take on petitions for review. Rule 56.1(b)(1) sets out the rule for denying a petition.⁴⁰ The rule even specifies that the petition notation to be used is "Denied."⁴¹ The denial of a petition for review indicates that the Court has reviewed the opinion and considered the merits of the appeal, and, while not sat-

isfied that the opinion correctly states the law in all respects, has determined that the petition presents no error that requires reversal or is of such importance to the jurisprudence of the state as to require correction.⁴²

Rule 56.1(b)(2) states that if the Texas Supreme Court lacks jurisdiction, the petition for review should be dismissed for want of jurisdiction.⁴³ The rule specifies that the petition notation to be used is "Dismissed for want of jurisdiction."⁴⁴ This action indicates that since the Court lacks jurisdiction, it has not reviewed the merits of the appeal.

The Texas Supreme Court may involuntarily dismiss or grant a motion to dismiss an appeal during any part of the appeals process. That is, the Court may dismiss an appeal either before granting a petition for review as well as after granting the petition. Technically, when the Court grants a petition, the appeal is no longer a petition for review, but rather a cause or case before the Court.

The Court may dismiss a petition or case involuntarily for any number of reasons, such as failure to pay required fees,⁴⁵ or because the petition or case is moot.⁴⁶ The petition notation should be "Dismissed," and this action indicates that the Texas Supreme Court has not reviewed the merits of the appeal. For cases, the notation should be "Case dismissed," and this action indicates that the Court has not addressed the merits of the appeal in its disposition of the case.

Rule 56.1(c) sets out the rule for disposing of a court of appeals decision with the petition notation "Refused."⁴⁷ The notation has been used sparingly recently, since it elevates a court of appeals opinion to the level of Texas Supreme Court authority.⁴⁸ The effect on the weight of authority, then, of a "Refused" designation is dramatic. As the rule states, "[t]he court of appeals' opinion in the case has the same precedential value as an opinion of the Supreme Court."⁴⁹

Rule 56.1(d) sets out the disposition of a petition that has been improvidently granted.⁵⁰ The improvident grant is a

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complete “do over” for the Texas Supreme Court. The order granting the initial review is set aside, and the petition is then disposed of in any of the ways listed above: it can be dismissed, denied, or refused just as though the initial review had never been granted.⁵¹ The improvident grant action itself has no precedential effect, and as an intermediate procedural step, should not be listed in a citation. The subsequent history should only include the Court’s final disposition of the petition.

The next two sections of Rule 56 do not set out *petition* dispositions, but rather dispositions of *cases* in which review is granted and action taken without argument and without considering the merits of the appeal.⁵² Rule 56.2 provides that the Texas Supreme Court can grant a petition for review and then, without reference to the merits, dismiss the case as moot. As part of this procedure the court may modify the *judgment* of the lower court, but this action does not affect the weight of authority of the court of appeals’ *opinion*. Since this disposition is of a case, though, its designation cannot be “Petition dismissed.” Indeed, the *petition* is granted and then the *case* is dismissed. The notation “Case dismissed” should be used. If the Court’s order also vacates the judgment of the court of appeals, the notation “Case dismissed, judgment vacated” should be used. Rule 56.3 addresses the disposition of a case in which the parties have agreed to a settlement, and move the Court to render a judgment according to that settlement agreement.⁵³ The only effect of the disposition by the Court of these settled cases is on the *judgment* of the lower court, not on the *opinion* of the court of appeals. In fact, the Court has made it clear that while the judgment of the court of appeals may be vacated, the opinion of the appeals court is not, because private settlement negotiations cannot operate to vacate an opinion of a court of appeals.⁵⁴

Dispositions under Rules 56.2 and 56.3, then, affect only the judgment of the court of appeals or of the trial court.

The underlying court of appeals opinion remains intact, and the effect of a disposition under either Rules 56.2 or 56.3 on the weight of authority of the court of appeals opinion is the same as if the petition for review had been dismissed.⁵⁵ That is, dispositions under Rules 56.2 and 56.3 indicate that the Texas Supreme Court has not addressed the merits of the appeal in its disposition of the case. The notation “Case dismissed” or “Case dismissed, judgment vacated” conveys this and is consistent with Court analysis.⁵⁶

Rule 53.9 provides that if a petition, response, or reply does not conform to the rules, the Court may strike the document and request that it be resubmitted, or strike the document and consider the petition without it. The Texas Supreme Court has struck a petition because the typeface did not comply with the rules,⁵⁷ the appendix included substantive briefing,⁵ and the petition exceeded the page limits.⁵⁹ If the court has struck a petition and is waiting for another to be filed, the case citation should include the petition notation “Struck.” This will alert a researcher to the fact that another petition may be filed. While a petition is pending, the petitioners by motion, or the parties by joint motion, may request that the petition be withdrawn. If the court grants the motion and the petition is withdrawn, the petition notation “Withdrawn” should be included in the court of appeals citation. The withdrawal of a petition indicates that the Court has not reviewed the merits of the appeal, but this action otherwise does not directly affect the underlying court of appeals judgment or opinion.

A petition or case may also be abated, either by action of the Court, for example, for bankruptcy proceedings,⁶⁰ or by motion of the parties or petitioner to pursue settlement negotiations.⁶¹ Abatement is, of course, an intermediate action pending reinstatement and final disposition. The fact that there is an appeal pending, although that appeal is currently abated, needs to be reflected in a subsequent history notation. If the petition

has been abated, the petition notation should be “Abated,” while an abatement of a pending case should be noted, “Case abated.” This action indicates that the case does not have a final disposition.

Finally, three other petition notations may be included in a court of appeals citation. First, if the time for filing a petition has not run but a petition has not yet been filed, the petition notation “No petition history” should be included in the court of appeals citation. Second, if a petition has been filed, but there has been no further action by the Court, the petition notation “Filed” should be included in the citation. And last, if no petition was ever filed and the time for filing has run, the notation “no petition” should be included in the court of appeals citation.

Every court of appeals citation in Texas, then, needs to include a subsequent history that notes the Texas Supreme Court’s disposition of the petition for review or the lack of a petition for review. By including a subsequent history, the writer helps the reader evaluate the weight of authority of the court of appeals’ opinion. When selecting authority, it is important to remember that if a petition has been refused or denied, the Texas Supreme Court has reviewed the court of appeals’ opinion and the merits of the appeal in reaching its disposition. If a petition is dismissed for any reason, or if a petition was never filed, the Court has not reviewed the merits of the appeal. Legal writers should prefer court of appeals authority that has been reviewed by the Texas Supreme Court.

A summary of the notations used for subsequent history in court of appeals cases appears below. The petition notations are listed in order of preference for selecting court of appeals authority. That is, a “petition refused” case is preferred over all others, then a “petition denied” case, and so on.

Notes

1. The courts of appeals had only civil jurisdiction until 1981. While subsequent histories are now required for both crim-

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inal and civil cases, this article focuses exclusively on subsequent histories in civil cases.

2. Courts began including subsequent history in citations in their opinions as early as 1896. *See, e.g., Cabell v. Johnston*, 35 S.W. 946 (Tex. Civ. App. 1896, writ denied), *citing Langham v. Lanier*, 26 S.W. 255 (Tex. Civ. App. 1894, writ ref'd).
3. The earliest writ table can be found at 29 S.W. xix (1895).
4. The first compiled list of writ histories appears at 94 Tex. 658 (1900).
5. *See* comment at 208 S.W. xiii (1919).
6. *Id.*
7. *Free v. Fleet*, 250 S.W.2d 398, 399 (Tex. Civ. App. — Galveston 1952, no writ).
8. *Reville v. Poe*, 249 S.W.2d 241, 245 (Tex. Civ. App. — Austin 1952, writ dism'd).
9. *Shepherd v. Erickson*, 416 S.W.2d 450, 452 (Tex. Civ. App. — Houston 1967, writ ref'd n.r.e.).
10. *Harris v. Allstate Ins. Co.*, 249 S.W.2d 669, 673 (Tex. Civ. App. — Texarkana 1952, writ ref'd).
11. *Fuller v. Wainwright*, 415 S.W.2d 234 (Tex. Civ. App. — El Paso 1967, no writ).

NOTATIONS ON PETITIONS FOR REVIEW / CAUSES IN THE TEXAS SUPREME COURT

Notation on Petitions (Abbreviations)	Rule Defining Notation	Meaning
Petition refused. (pet.ref'd)	Tex. R. App. R. 56.1(c)	The Supreme Court determines — after a response has been filed or requested — that the court of appeals' judgment is correct and the legal principles announced in the opinion are likewise correct. The court of appeals opinion has the same precedential value as an opinion of the Supreme Court.
Petition denied. (pet. denied)	Tex. R. App. P. 56.1(b)(1)	The Supreme Court is not satisfied that the opinion of the court of appeals has correctly declared the law in all respects, but determines that the petition presents no error that requires reversal or that is of such importance to the jurisprudence of the state as to require correction.
Petition dismissed, want of jurisdiction. (pet. dism'd w.o.j.)	Tex. R. App. P. 56.1(b)(2)	The Supreme Court lacks jurisdiction to consider the petition.
Petition dismissed. (pet. dism'd)	Tex. R. App. P. 60.6 The Supreme Court can dismiss a petition for failure to follow any of the rules of procedure, or by motion of the parties.	The Supreme Court has not reviewed the merits of the appeal.
Petition withdrawn. (pet. withdrawn)	The petitioner by motion, or the parties by joint motion, may request the petition be withdrawn. The grant of the motion results in the petitioner's withdrawal.	The Supreme Court has not reviewed the merits of the appeal.
Petition abated. (pet. abated)	Tex. R. App. P. 8.2 A bankruptcy suspends the appeal.	The Supreme Court has not reviewed the merits of the appeal, but may do so if the petition is reinstated.
Petition struck. (pet. struck)	Tex. R. App. P. 53.9	The Supreme Court has not reviewed the merits of the appeal, but has struck the petition for failure to comply with court rules.
Petition filed. (pet. filed)	Tex. R. App. P. 53.7 The petition has been timely filed, but the Court has taken no action on it.	The Supreme Court has not reviewed the merits of the appeal.
No petition history. (no. pet. hist.)	Tex. R. App. P. 53.7 No petition has been filed, but the time for filing has not yet run.	The Supreme Court has not reviewed the merits of the appeal.
No petition. (no pet.)	No petition has been filed, and the time for filing has expired.	The Supreme Court has not reviewed the merits of the appeal.

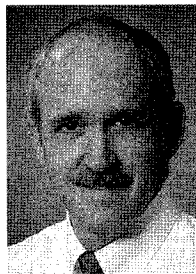
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Notation on Causes (Abbreviations)	Rule Defining Notation	Meaning
Case dismissed. (case dism'd)	<p>Tex. R. App. R. 60.6 The Supreme Court can dismiss a case after granting a petition by motion of the parties.</p> <p>Tex. R. App. P. 56.2: The Supreme Court may, after notice to the parties, grant the petition and, without hearing argument, dismiss the case or the appealable portion of it without addressing the merits of the appeal.</p>	The Supreme Court has not addressed the merits of the appeal in its disposition of the case.
Case dismissed, judgment vacated. (case dism'd, judgm't vacated)	<p>Tex. R. App. P. 56.2: The Supreme Court may, after notice to the parties, grant the petition and, without hearing argument, dismiss the case or the appealable portion of it without addressing the merits of the appeal. This order may vacate the court of appeals judgment.</p> <p>Tex. R. App. P. 56.3: If a case is settled by agreement of the parties and all parties so move, the Supreme Court may grant the petition if it has not already been granted and, without hearing argument or considering the merits, render a judgment to effectuate the agreement.</p>	The Supreme Court has not addressed the merits of the appeal in its disposition of the case. Although the Supreme Court may vacate the judgment of the lower court, the Court's order does not vacate the court of appeals' opinion unless the order specifically provides otherwise.
Case abated. (case abated)	<p>Tex. R. App. P. 8.2 A bankruptcy suspends the appeal.</p>	The Supreme Court has not reviewed the merits of the appeal, but may do so if the case is reinstated.

12. *Id.*
13. *Taormina v. Culicchia*, 355 S.W.2d 569 (Tex. Civ. App. — El Paso 1962, writ ref'd n.r.e.).
14. *Fisch v. Transcontinental Ins. Co.*, 356 S.W.2d 186, 190 (Tex. Civ. App. — Houston 1962, writ ref'd n.r.e.).
15. Gordon Simpson, *Notations on Applications for Writs of Error*, 10 Tex. Bar. J. 547 (1949).
16. *Id.*
17. University of Texas Law Review, *Texas Rules of Form* (1966).
18. *Id.* at § 4:2.
19. "While I do not purport to speak for the court, I feel that I can safely say that the members of the court would be pleased if all of the citations given it by counsel were in the form suggested here (with the single exception indicated p.5 n*)." *Id.* at p. 3. The single exception noted was the Texas Supreme Court's preference of "Tex. Sup.," over simply "Tex.," when referring to the court itself.
20. *Id.* at p. 8 (1966).
21. *Id.* at § 4:2.
22. In the mid-1980's the *Texas Supreme Court Index* + (currently titled *Index to the Supreme Court of Texas*) began listing the entire procedural history of a writ, from its filing through its final disposition.
23. Tex. R. App. P. 8.2.
24. Tex. R. App. P., adopted 1997.
25. Tex. R. App. P. 56.3 codified the holding in *Houston Cable TV, Inc. v. Inwood West Civic Assoc. Inc.*, 860 S.W. 2d 72 (Tex. 1993) that the Texas Supreme Court can vacate a court of appeals judgment and remand the case for a judgment consistent with the parties' agreement, but that such an agreement could not vacate the court of appeals opinion unless the Texas Supreme Court order specifically so provided.
26. Tex. R. App. P. 60.6.
27. Tex. R. App. P. 59.
28. *See, e.g.*, Supreme Court of Texas Orders Pronounced June 28, 2001, p. 4 (PDF file 062801OR.pdf found at <http://www.supreme.courts.state.tx.us/FILES.HTM>).
29. University of Texas Law Review, *Texas Rules of Form* § 6.4.1 (9th ed. 2d prtg. 1998).
30. *Id.*
31. The table is incomplete, as it does not address, for example, any notation for petitions improvidently granted (Rule 56.1(d)) or moot (Rule 56.2). It is inaccurate in that the notation "petition granted, judgment vacated without reference to the merits" cites to Tex. R. App. P. 56.2 with an explanation that is found in Tex. R. App. P. 56.3.
32. The only abbreviation for petitions dismissed by the Texas Supreme Court are for those dismissed for want of jurisdiction. The Texas Supreme Court may dismiss a petition for several other reasons, such as agreement by the parties or even failure to pay the filing fee. *See, e.g.*, Supreme Court of Texas Orders Pronounced from June 7, 2001 (*infra* n. 35), and June 28, 2001 (*supra* n. 28). The Greenbook gives no guidance to a practitioner in citing these other kind of dismissals.
33. *See* discussion of "petition denied" and "petition refused" *infra*.

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34. Tex. R. App. P. 56.1.
 35. Tex. R. App. P. 7.
 36. *See, e.g.*, Supreme Court of Texas Orders Pronounced June 7, 2001, p. 6 (PDF file 060701OR.pdf found at <http://www.supreme.courts.state.tx.us/FILES.HTM>).
 37. *See, e.g.*, Supreme Court of Texas Orders Pronounced March 30, 2000, p. 4 (MS Word file 033000.wp5 found at <http://www.supreme.courts.state.tx.us/FILES.HTM>).
 38. Tex. R. App. P. 60.6.
 39. Tex. R. App. P. 56.
 40. "If the Supreme Court is not satisfied that the opinion of the court of appeals has correctly declared the law in all respects, but determines that the petition presents no error that requires reversal or that is of such importance to the jurisprudence of the state as to require correction, the Court will deny the petition with the notation 'Denied.'" Tex. R. App. P. 56.1(b)(1).
 41. *Id.*
 42. *Id.*
 43. Tex. R. App. P. 56.1(b)(2).
 44. *Id.*
 45. *See, e.g.*, Supreme Court of Texas Orders Pronounced June 28, 2001, p. 4 (PDF file 062801OR.pdf found at <http://www.supreme.courts.state.tx.us/FILES.HTM>).
 46. *See, e.g.*, Supreme Court of Texas Orders Pronounced October 25, 2001, p. 4 (WordPerfect file 102501OR.wpd found at <http://www.supreme.courts.state.tx.us/FILES.HTM>).
 47. Tex. R. App. P. 56.1(c) provides in part: "If the Supreme Court determines — after a response has been filed or requested — that the court of appeals' judgment is correct and that the legal principles announced in the opinion are likewise correct, the Court will refuse the petition with the notation 'Refused.'"
 48. In the five-year period from 1997 to 2001, only one case was given the "refused" notation. Office of Court Administration and the Texas Judicial Council, *Texas Judicial System Annual Reports* (available at http://www.courts.state.tx.us/publicinfo/annual_reports.asp).
 49. Tex. R. App. P. 56.1(c).
 50. Tex. R. App. P. 56.1(d).
 51. *Id.*
 52. Tex. R. App. P. 56.2 and Tex. R. App. P. 56.3.
53. Tex. R. App. P. 56.3.
 54. "A settlement does not automatically require the vacating of a court of appeals' opinion — either by this court or by the intermediate appellate court. Our courts are endowed with a public purpose — they do not sit merely as private tribunals to resolve private disputes. While settlement is to be encouraged, a private agreement between litigants should not operate to vacate a court's writing on matters of public importance." *Houston Cable TV, Inc.*, 860 S.W.2d 72 (Tex. 1993).
 55. "Although the application for writ of error is granted, the precedential authority of a court of appeals opinion which is not vacated under these circumstances is equivalent to a 'writ dismissed' case." *Id.* at n. 3.
 56. *Id.*
 57. *See, e.g.*, Supreme Court of Texas Orders Pronounced April 15, 1999, p. 3 (MS Word file 041599or.wp5 found at <http://www.supreme.courts.state.tx.us/FILES.HTM>).
 58. *See, e.g.*, Supreme Court of Texas Orders Pronounced August 26, 1999, p. 10 (MS Word file 082699or.wp5 found at <http://www.supreme.courts.state.tx.us/FILES.HTM>).
 59. *See, e.g.*, Supreme Court of Texas Orders Pronounced September 9, 1999, p. 6 (MS Word file 090999or.wp5 found at <http://www.supreme.courts.state.tx.us/FILES.HTM>).
 60. Tex. R. App. P. 8.2.
 61. *See, e.g.*, Supreme Court of Texas Orders Pronounced June 8, 2000, p. 3 (MS Word file 060800or.wp5 found at <http://www.supreme.courts.state.tx.us/FILES.HTM>).



James Hambleton is the associate dean for budget and planning and professor of law at Texas Wesleyan University School of Law in Fort Worth. Dean Hambleton received his master's degree in library science from the University of Michigan and his law degree from George Washington University in Washington, D.C.

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A "Last Chance" to meet your CLE obligation before your annual deadline will be offered Thursday, Sept. 26, and Friday, Sept. 27, at the Texas Law Center in Austin, the Cityplace Conference Center in Dallas, the Radisson Astrodome Hotel in Houston, and the Bexar County Courthouse in San Antonio. Registrations will be accepted for the morning and afternoon sessions at the door only. The price is \$30 per session or \$60 for the full day. Attendance counts toward participatory MCLE credit. For more information, call (800)204-2222 or (512)463-1463, Ext. 2038.

THURSDAY, SEPT. 26

Attorneys attending these videos may earn up to 6.5 hours' participatory credit, including 1.25 hours' ethics. Videos are from the "Advanced Expert Witness II Seminar."

The morning session includes three hours' participatory credit, including .42 hour ethics. 8:00 a.m. — Registration; 8:30 a.m. — "Using and Attacking Expert Witnesses in Summary Judgment Proceedings" (.33 hour); 8:50 a.m. — "Using World Wide Web Resources in the Practice of Law" (.58 hour); 9:25 a.m. — "Distinguishing Facts, Lay and Expert Opinions" (.33 hour); 9:45 a.m. — "Ethical Issues Relating to Expert Witnesses" (.42 ethics); 10:10 a.m. — Break; 10:25 a.m. — "Experts: Recent Developments in Texas and Federal Courts" (.42 hour); 10:50 a.m. — "Rules of Discovery Relating to Experts" (.5 hour); 11:20 a.m. — "Liabilities and Immunities of Expert Witnesses" (.25 hour); 11:35 a.m. — "Sources for Locating Expert Witnesses" (.25 hour); 11:45 a.m. — Lunch (on your own).

The afternoon session includes 3.25 hours' participatory credit, including .75 hour ethics. 12:45 p.m. — Registration; 1:00 p.m. — "Trial Demonstration: Direct and Cross of Legal Malpractice Expert" (.83 hour ethics); 1:50 p.m. — "Factoring Inflation

and Present Value Discounts on Future Damages" (.67 hour); 2:30 p.m. — "Trial Demonstration: Direct and Cross of a Life Care Plan Expert" (.58 hour); 3:05 p.m. — Break; 3:20 p.m. — "The Polygraph in State and Federal Court: Law, Methodology, Daubert Prove-Up, and Cross Examination" (1.25 hours); 4:35 p.m. — Adjourn.

FRIDAY, SEPT. 27

Attorneys attending these videos may earn up to 6.75 hours' participatory credit, including 1.25 hours' ethics. Videos are from the "Advanced Expert Witness II Seminar."

The morning session includes 3.5 hours' participatory credit, including 1.25 hours' ethics. 8:00 a.m. — Registration; 8:30 a.m. — "Attorneys' Fees: Proving and Disproving a 'Reasonable Fee for Necessary Services'" (.33 hour ethics); 8:50 a.m. — "Trial Demonstration: Direct and Cross-Examination of a Legal Expert Regarding the Reasonableness and Necessity of Attorney's Fees" (.92 hour ethics) 9:45 a.m. — "Types of Damages Recoverable in Business Litigation" (.33 hour); 10:05 a.m. — "Use of Corporate Employees to Establish Liability and Damages for Breach of Contract" (.42 hour); 10:30 a.m. — Break; 10:45 a.m. — "Tips and Examples for More Effective Presentation of Expert Testimony" (.83 hour); 11:25 a.m. — "The Statistics Expert" (.67 hour); 12:05 p.m. — Lunch (on your own).

The afternoon session includes 3.25 hours' participatory credit. 12:45 p.m. — Registration; 1:00 p.m. — "Medical Malpractice: Emergency Room Negligence by Physician, Nurse, and Hospital" (.83 hour); 1:50 p.m. — "Trial Demonstration: Direct and Cross-Examination of Neurologist on Causation from Failure to Diagnose" (.75 hour); 2:35 p.m. — Break; 2:50 p.m. — "The Spinal Injury Expert" (.75 hour); 3:35 p.m. — "The Treating Physician As Expert" (.83 hour); 4:25 p.m. — Adjourn.



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CENTRAL

Chris Garza Elizalde, former executive director for government services with the Texas Association of School Boards, and **Evelyn N. Howard-Hand** have joined Walsh, Anderson, Brown, Schulze & Aldridge, P.C., La Costa Centre, 6300 La Calma, Ste. 200, Austin 78752.

Kris R. Kwolek, formerly in-house counsel for a semi-conductor company, has joined Gjerset & Lorenz, L.L.P., 4425 South Mopac Expy., Bldg. C, Ste. 101, Austin 78735.

Christopher W. Peterson, formerly with Meece & Associates, has opened the Law Offices of Christopher W. Peterson at Crystal Park Plaza, 2700 Earl Rudder Freeway South, Ste. 1500, College Station 77842-0021. In addition, Peterson is of counsel to Mueller Vacek & Kiecke, L.L.P., 1005 Congress Ave., Ste. 950, Austin 78701.

Shannon Edmonds, former special assistant for criminal justice to Lt. Governor Bill Ratliff, has become director of governmental relations for the Texas District Attorneys Association, 1210 Nueces, Austin 78701.

Mitchell S. Block, formerly with Kritzer & Levick in Atlanta, Ga., has joined the Law Offices of Glenn K. Weichert, 3821 Juniper Trace, Ste. 107, Austin 78738.

Cristen D. Feldman and **Edward A. Jeffords** have become of counsel to Ivy, Crews & Elliott, P.C., 8140 N. Mopac, Bldg. 2-150, Austin 78759-8860. **Elizabeth A. Dankof** has become an associate of the firm.

Brandt Rydell, formerly with Wal-Mart Stores, Inc., has become an associate of Smith, Robertson, Elliott &

Send announcements about new jobs and promotions for publication in the *Texas Bar Journal* to: On the Move, *Texas Bar Journal*, P.O. Box 12487, Austin 78711-2487; fax to (512) 463-3802; or email to tbj@texasbar.com.

Glen, L.L.P., 1717 W. Sixth St., Ste. 300, Austin 78703.

Steve Dellett and **Mark Rozman** have been named shareholders in Trop, Pruner & Hu, P.C., 8911 N. Capital of Texas Highway, Ste. 4150, Austin 78759.

T. Alan Ceshker, formerly a sole practitioner and instructor with the WJF Institute, and **John M. Grey II** have become associates of Lloyd, Gosselink, Blevins, Rochelle, Baldwin and Townsend, P.C., 111 Congress Ave., Ste. 1800, Austin 78701.

Sharron L. Swann and **Ralph M. Novak, Jr.** were both named directors and shareholders of Hilgers & Watkins, P.C., P.O. Box 2063, Austin, 78768. **Susan P. Burton** has become a shareholder in the firm.

David P. Valenti has become an associate of Jackson Walker, L.L.P., 100 Congress Ave., Ste. 1100, Austin 78701.

GULF COAST

Gregg Harrison, formerly with Riddle & Brazil, P.C., has become an associate of the Brann Law Firm, The Kirby Mansion, 2000 Smith St., Houston 77002.

Malika D. Reed has joined Abbott, Simses & Kuchler, P.L.C., 1360 Post Oak Blvd., Ste. 1700, Houston 77056.

Beverly D. Armstrong, formerly with The Hatchett Law Firm, has opened

an office for the practice of law at 2512 Southmore, Houston 77004.

Mark S. Biskamp has become special counsel to Baker Botts, L.L.P., 910 Louisiana, Houston 77002.

Amy L. Nelson has become a trust relationship manager for Northern Trust, 10000 Memorial Dr., Ste. 300, Houston 77024.

Daniel J. Churay, formerly with Baker Hughes, has become a senior counsel to Fulbright & Jaworski, L.L.P., 1301 McKinney, Ste. 5100, Houston 77010.

Charles Moore, formerly of Akin, Gump, Strauss, Hauer & Feld, L.L.P., has joined LeBoeuf, Lamb, Greene & MacRae, L.L.P., 1000 Louisiana, Houston 77002.

Clarence E. Eriksen and **David L. Phillips** have become partners in Jackson Walker, L.L.P., 1100 Louisiana, Ste. 4200, Houston 77002. **Jason Martin** has become an associate of the firm.

NORTH TEXAS

John Kevin Gray has become a shareholder in Jenkins & Gilchrist, 1445 Ross Avenue, Ste. 3200, Dallas, 75202-2799.

Thomas W. Slover and **Paul H. Speaker** have become associates of Owens, Clary & Aiken, L.L.P., 700 N. Pearl St., Ste. 1600, Dallas 75201.

ON THE MOVE

David L. Wiley, formerly with Jenkins & Gilchrist, P.C., has opened an office for the practice of law at 500 One Turtle Creek Village, 3878 Oak Lawn Ave., Dallas 75219-4482.

Gregory M. Weinstein has become a shareholder in Godwin Gruber, Renaissance Tower, 1201 Elm St., Ste. 1700, Dallas 75270. **Maria Wormington** and **Crystal R. Gee** have become associates of the firm.

James W. Walker and **Kevin L. Sewell**, both formerly with Cozen O' Connor, have formed Walker Sewell, L.L.P., 1601 Elm St., Thanksgiving Tower, Ste. 4301, Dallas 75201. **Katherine A. Grossman** and **John R. Matney, Jr.** have become partners in the firm. **Melanie Harber Sumrow**, **Dustin K. Hunter**, **Pamela D. Conway**, and **Matthew S. Paradowski** have become associates of the firm.

Kassandra G. McLaughlin, formerly with Lloyd, Gosselink, Blevins, Rochelle, Baldwin & Townsend, P.C., has become an associate of Hosford & Creasey, P.C., 2045 Thanksgiving Tower, 1601 Elm St., Dallas 75201.

Ray Ivey has become an associate of the Law Firm of J. Michael McBride, P.C., 411 W. Seventh St., Ste. 210, Fort Worth 76107.

Elizann Carroll, formerly with Strasburger & Price, L.L.P., has joined Thompson & Knight, L.L.P., 1700 Pacific Ave., Ste. 3300, Dallas 75201.

Scott A. Barber, formerly a partner in Brown, Brown, Chandler, & Townend, has formed the Law Office of Scott A. Barber, 636 N. Hwy. 67, Cedar Hill 75104.

John R. Owen, formerly with John R. Owen and Associates, and **Jerry**

Fazio, formerly a shareholder in Dodge Fazio Anderson & Jones, P.C., have formed Owen & Fazio, P.C., 7557 Rambler Rd., Ste. 1465, Dallas 75231. **Jonathan Davenport** and **Stephanie Hroza** have become associates of the firm.

David Donohue, **Dawn Fowler**, and **Pat Keane** have opened Keane, Fowler & Donohue, 2506 McKinney Ave., Ste. A, Dallas 75201.

Eric Allen has become corporate counsel to Hicks, Muse, Tate & Furst, Inc., 200 Crescent Court, Ste. 1600, Dallas 75201.

Ken Pearson, formerly a partner in Brown McCarroll, has become vice president and general counsel to HQ Global Workplaces, 15305 Dallas Parkway, Ste. 1400, Addison 75001. **David Verhaag** has become director of human resource services of the firm.

PANHANDLE

Sam C. Gregory, formerly with King & Gregory, P.L.L.C., has opened Sam C. Gregory, P.L.L.C., 1212 13th St., Ste. 204, Lubbock 79401.

Barbara A. Bauernfeind, formerly with Wagstaff, Alvis, Stubbeman, Seamster & Longacre, L.L.P., has become an associate of Hund & Harriger, L.L.P., 4021 84th St., Lubbock 79423.

SOUTH CENTRAL

Stacy C. Ferguson, formerly with the San Antonio Independent School District and shareholder in Schwartz & Eichelbaum, P.C., has joined Walsh, Anderson, Brown, Schulze & Aldridge, P.C., One International Centre, 100 N.E. Loop 410, Ste. 1000, San Antonio 78216.

David W. Navarro, formerly with Gardere Wynne Sewell, L.L.P., has joined Hale Hornberger Fuller Sheehan

Becker & Beiter, Inc., One Riverwalk Place, 700 N. St. Mary's St., Ste. 600, San Antonio 78205.

Claudia G. Arrieta, has become an associate of Thornton, Summers, Biechlin, Dunham & Brown, L.C., Airport Center, Ste. 300, 10100 Reunion Place, San Antonio 78216-4186.

Loretta G. LeBar has become of counsel to Ball & Weed, P.C., 745 E. Mulberry, Ste. 500, San Antonio 78212-3191.

SOUTH TEXAS

John Flood, formerly with Hilliard & Munoz, has opened Flood & Flood, 802 N. Carancachua, 900 Frost Bank Plaza, Corpus Christi 78470.

OUT OF STATE

John P. Tomaszewski has become the chief privacy officer and director of privacy management for CheckFree Corporation, 4411 E. Jones Bridge Rd., Norcross, Ga. 30092.

Frederick B. Goldsmith, former president and general counsel of the Great Lakes Towing Company, has joined Burns, White & Hickton, L.L.C., 120 Fifth Ave., Ste. 2400, Pittsburgh, Pa. 15222.

Karen Kretschman, formerly a staff attorney for the Arizona Supreme Court, has been promoted to manager, Court Programs Unit, Court Services Division, Administrative Office of the Courts, Arizona Supreme Court, 1501 W. Washington, Phoenix, Ariz. 85007.

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