



SB293 & HB 16 : A faster track for MSJs

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Roadmap

- Rulemaking process
- Old MSJ practice
- Legislative overhaul
- Proposed Rule 166a
- Comment process
- Immediate practice tips



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Supreme Court Advisory Committee

- Assists the Supreme Court in the continuing study, review, and development of rules of administration and procedure for Texas courts.
- Meets 4-5 times per year.
- Liaisons from the Court - Justice Bland & Justice Young
- Membership includes lawyers, judges, COA justices, 2 district clerks (ex officio), professors
- Works on referrals from the Court (not self-driven).
 - Court's own study/request
 - SBOT Rules Committee
 - Legislative referrals

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SB 293 Creates a Referral

SECTION 28. Not later than March 1, 2026, the Texas Supreme Court and the Texas Court of Criminal Appeals shall adopt rules necessary to implement Section 22.302(a), Government Code, as amended by this Act, and Section 23.303, Government Code, as added by this Act.

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 - 2011 - 2020
 - 2001 - 2010
 - 1991 - 2000
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2021 - 2030

2026			
Date(s)	Agenda	Transcript	Supplement
January 30	Agenda		Materials
June 5			
September 10			
December 4			

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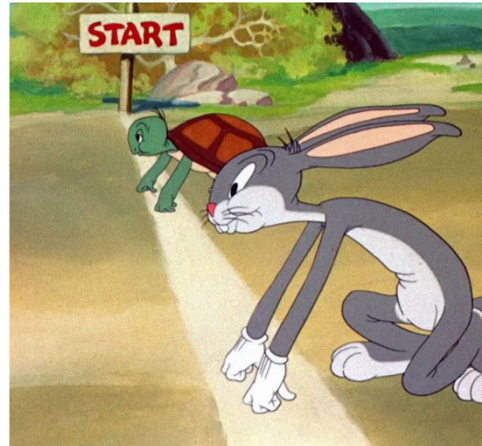
RULES ADVISORIES

Order #	Title
26-9008	Preliminary Approval of Amendments to Rule 6 of the Texas Rules of Judicial Administration
26-9002	Final Approval of Amendments to Rule 1 of the Rules Governing Admission to the Bar of Texas
25-9105	Amended Order Giving Preliminary Approval of Amendments to Rule 143a and Part V of the Texas Rules of Appellate Procedure
25-9106	Preliminary Approval of Amendments to Rule 166a of the Texas Rules of Civil Procedure
25-9104	Final Approval of Amendments to Texas Rules of Appellate Procedure 9, 52, 53, 54, 55, 56, 57,
25-9102	Final Approval of New Texas Rule of Evidence 412 (Joint Order, Court of Criminal Appeals Misc 008)

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Practical Reality Before 2025 Changes

- Lawyer Control:
 - Rule 166a governed lawyers
 - Leverage-only MSJs
 - Filing without intent to set
 - Agreed resets
- Court Control:
 - No deadlines for courts
 - Hearings optional
 - Hearing dates delayed
 - Rulings could be delayed indefinitely
 - Motions sat for months or years
 - No setting, no ruling
- Mandamus unreliable
- Uncertainty drove settlement and/or costs clients



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Legislative Response: SB293

- Problem: Delay = cost + inefficiency
- Problem: Underpaid Judges
- Problem: No accountability for courts
- Solution: Raises for judges
- Solution: Legislature imposed deadlines, along with other court accountability measures



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SECTION 4. Section 33.001(b), Government Code, is amended to read as follows:

(b) For purposes of Section 1-a, Article V, Texas Constitution, "wilful or persistent conduct that is clearly inconsistent with the proper performance of a judge's duties" includes:

(1) wilful, persistent, and unjustifiable failure to timely execute the business of the court, considering the quantity and complexity of the business, including failure to meet deadlines, performance measures or standards, or clearance rate requirements set by statute, administrative rule, or binding court order;

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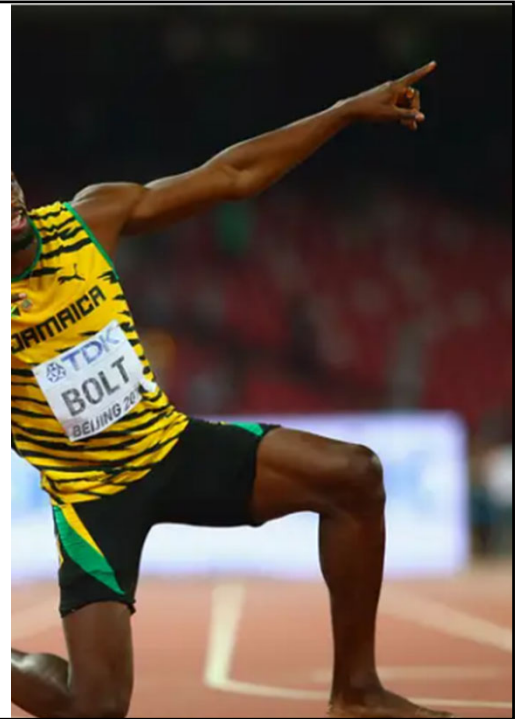
SB 293 (eff. Sept. 1, 2025)

- Created Gov't Code § 23.303
- Mandatory docketing and reporting
- First MSJ deadlines for courts:
 - Triggered by *response* date - Hearing/submission within 45 days of response.
 - Written ruling within 90 days of hearing/submission.
 - But! No response due until hearing set... thus the deadlines are only triggered 7 days before the hearing (i.e., when the response is filed).
 - Courts could delay triggering deadlines
- Legislature quickly corrected course
- SB293 applies to MSJs filed between **September 1 and December 3, 2025**

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HB 16 (eff. Dec. 4, 2025)

- Trigger moved to *motion* filing
- Hearing/submission within 60 days of motion
- Extendable to 90 days (limited reasons)
 - Docket requires
 - Showing of good cause
 - Consent of movant
- Written ruling required
- 90-day ruling deadline
- Reporting to OCA
- Withdrawn motions excluded



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Statutory Teeth

- Judicial discipline provisions
 - Failure to meet deadlines is a basis for judicial discipline.
- Quarterly compliance reports
- Annual public report
- Deadlines cannot be modified by rule of procedure



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Why does TRCP 166a Have to Change?

- SB293 required SCOTx to adopt rules necessary to implement the legislative change
- Statute governs courts
- TRCP 166a governed lawyers
- Mismatch created problematic scenarios, e.g.:
 - Day 1 – Motion filed (satisfies requirement that it be filed at least 21 days before any hearing).
 - Day 58 – Court sets hearing for Day 59.
 - Response deadline: 7 days before the hearing (Day 52).
 - Problem: Parties are not told until Day 58 that the hearing will occur on Day 59 — but their response was due six days earlier on Day 52.
- TRCP 166a was a Frankensteinian Rule
- Supreme Court rewrites the rule

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Proposed TRCP 166a: Big Picture

- Complete rewrite
- Definitions added
- Clerk must notify court
- Court must promptly set motion
- Fixed deadlines (Response, Reply)
- Objections to evidence
- Eliminates dormant MSJs
- Applies to MSJs filed March 1 or later

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Proposed TRCP 166a – No Substantive Changes to:

- Defining Traditional and No-Evidence MSJs (part (a))
- Who may file (part (b)(1))
- Time to file (part (b)(3))
- No oral testimony at MSJ hearing (part (g)(4))
- MSJ standards (part (h)) – Court must grant:
 - Traditional MSJ: “except as to damages, there is no genuine issue as to any material fact and the movant is entitled to judgment as a matter of law on the issues expressly set out in the motion”
 - No-Evidence MSJ: “respondent produces summary judgment evidence raising a genuine issue of material fact”

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No Substantive Change to “Evidence Produced” (part (j))

- Evidence may be produced, including:
 - Depo transcripts
 - Pleadings or discovery responses
 - Affidavits/declarations
 - Stipulations
 - “Other authenticated evidence”
- Evidence produced “by reference” to where it may be found in the court’s file. See *State v. \$3,774.28*, 713 S.W.3d 381 (Tex. 2025).
- Use of discovery not on file.

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Proposed TRCP 166a – Practice Pointers for Movants

- Contents:
 - Title the MSJ (Traditional, No-Evidence, or Combined) (part (b)(2)(A))
 - Request oral hearing on p. 1 (if desired) (part (b)(2)(B))
 - For No-Evidence MSJ – Identify the elements as to which there is no evidence (part (b)(2)(D))
- Request hearing/submission date to occur between 35 - 60 days after the Motion is filed (part (g)(1))
- Include evidence in support of the MSJ (part (b)(2)(C))



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Proposed TRCP 166a – Pointers for Movants (Cont.)

- Reply is due 7 days after the Response is filed (part (e)(1))
- No new or independent grounds for MSJ in the Reply (part (e)(2))
 - Note– Recommended to object to Response evidence in the Reply
- Proposed order must be submitted before the hearing or written submission date (part (g)(3))
- Any withdrawal of the MSJ must be in writing and identify the date of the MSJ being withdrawn (part (f))
 - Don't just pass the hearing, no "agreed reset/continuance"
- Include any/all grounds for grant in the MSJ – The Court cannot grant on any other ground (part (h)(1))

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Proposed TRCP 166a – Practice Tips for Nonmovants



- Response is due **21 days after the MSJ is filed** unless leave of court or agreement of parties **(part (d)(1))**
- Response must include evidence in support of the response **and objections** to MSJ evidence **(part (d)(2))**
- Respondent's oral hearing request must be in the title of the response **(part (d)(2))**

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Proposed TRCP 166a – Pointers for Nonmovants (Cont.)

- Proposed order must be submitted before the hearing or written submission date **(part (g)(3))**
- Respondent may submit an affidavit (or declaration) of unavailability when evidence is unavailable **(part (d)(3))**
- Show “good cause” if hearing/submission requested between 61st and 90th day **(part (g)(1)(B))**

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Proposed TRCP 166a – Changes for Court & Staff

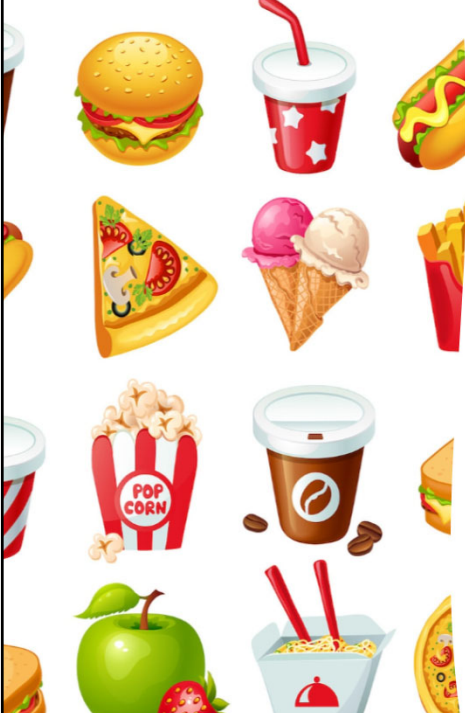
- Clerk must immediately call the MSJ to the court's attention **(part (c))**
- Court must promptly set the motion for submission or hearing (between 36th and 60th day after the MSJ) (90 days in certain circumstances) **(part (c))**
- Record on the docket the date the MSJ was heard or submitted **(part (g)(5))**
- Sign, file, and provide to the parties a ruling within 90 days after the hearing or submission date **(part (i))**
- No requirement for court to rule on objections

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More Practice Pointers (for MSJs filed before and after March 1, 2026)

- Statutory deadlines are in effect for MSJs filed after September 1, 2025
- Help the court stay on track to set a hearing:
 - Within **45** days of the Response for MSJs between September 1 and December 3
 - Within **60** days of the MSJ for MSJs filed December 3 until the new TRCP becomes effective
- Help the court stay on track to issue a ruling:
 - Within 90 days of the hearing or submission dates
- Calendar statutory deadlines
- Prepare response and objections to evidence early
- Stop placeholder MSJs

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Other Practice Pointers

- Do not combine Response and Cross-MSJ
- What happens if a court still fails to rule on time?
 - To the parties, nothing. Court faces deadline issues.
- Are the hearing and ruling deadlines jurisdictional?
 - Nothing in the statute or proposed rule suggests this.
- Didn't request hearing or submission?
 - Doesn't matter. The court should still set it.
- What about MSJs filed before March 1, with responses due after March 1?

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Look for Local Rule Changes. *E.g.,:*

- Dallas County (3-2-26): *All Summary Judgments must be filed at least 90 days before the date of the next trial setting absent leave of court.*
- 190th Dist. Ct. (Houston) (3-2-26): 1) No “pure-issue-of-law” MSJ until 60 days after an Answer without leave of court; 2) No other MSJs until claim/defense has been on file for 8 months (or 45 days before the close of discovery) without leave of court; 3) Failure to follow order may result in denial of motion and “monetary sanctions, if appropriate.”

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Thank you!