

# Texas Supreme Court and Court of Criminal Appeals Pass Emergency Relief Orders in Hurricane Harvey's Wake

By Dylan O. Drummond

**H**urricane Harvey struck the Texas Gulf Coast on August 25, 2017 and then lingered nearly a week, flooding and destroying innumerable homes, businesses, and even courts. In Houston, which suffered some of the worst inundation, flooding has closed the Criminal Courthouse indefinitely, compelling criminal court judges and staff to share Civil Courthouse courtrooms, while the Criminal Justice Center and the Jury Assembly Building will be closed for at least eight months. The storm severely damaged the county courthouse in Rockport and flooded Beaumont's courthouse. As a result, Governor Abbott declared a state of disaster in fifty-four counties.

Following the passage of legislation during the 81st Legislative Session in 2009 that permitted the Texas Supreme Court to "modify or suspend procedures for the conduct of any court proceeding affected by a disaster during the pendency of a disaster declared by the governor,"<sup>1</sup> Texas's two highest courts—for the first time—issued a slew of emergency administrative orders to assist litigants as well as both the bench and bar.



Hurricane Harvey turned many Houston area streets into rivers. Photo by David A. Furlow.

Specifically, the Supreme Court issued seven administrative orders less than a week after Harvey made landfall that temporarily modified not only what constitutes "good cause" for modifying or suspending litigation deadlines and allowed out-of-state attorneys to practice in Texas, but also suspended statutes of limitations statewide. The orders provided as follows:

- Just three days after the hurricane hit, the Texas Supreme Court and the Court of Criminal Appeals ordered that all Texas courts "**should consider disaster-caused delays as good cause** for modifying or suspending all deadlines and procedures—whether prescribed by statute, rule, or order—in any case, civil or criminal."<sup>2</sup>
- The following day, the Supreme Court directed that "**any applicable statute of limitations is suspended** for any civil claim if the claimant shows that the disastrous

<sup>1</sup> See TEX. GOV'T CODE § 22.035(b).

<sup>2</sup> Tex. Sup. Ct. Order of Aug. 28, 2017, Misc. Docket No. 17-9019, ¶ 3 (emphasis added); Tex. Ct. Crim. App. Order of Aug. 28, 2017, Misc. Docket No. 17-010, ¶ 3 (emphasis added).

conditions resulting from Hurricane Harvey prevented the timely filing of the claim despite the party's and counsel's diligent efforts."<sup>3</sup>

- The same day, the Supreme Court permitted out-of-state attorneys to practice Texas law for six months if they were displaced due to Hurricane Harvey or provides legal-aid or pro-bono services to victims of Hurricane Harvey.<sup>4</sup> The Court attached a registration form for the temporary practice of Texas law to the order that a temporarily-admitted attorney was required to submit to the Texas Bar.<sup>5</sup>
- Five days after Harvey made landfall, the Supreme Court extended the deadline for Texas attorneys in counties declared a disaster area by the Governor to pay their Texas Bar membership dues from August 31, 2017 to October 31, 2017.<sup>6</sup>
- The Supreme Court also suspended deadlines in certain child-protection actions in counties subject to a disaster declaration.<sup>7</sup>
- The Supreme Court and the Court of Criminal Appeals allowed the County Court at Law of Aransas County to conduct all court proceedings except jury trials in neighboring San Patricio County.<sup>8</sup>
- Both the Supreme Court and the Court of Criminal Appeals further allowed the Constitutional County Court and justice courts of Refugio County to conduct all court proceedings in neighboring Goliad and/or Victoria Counties.<sup>9</sup> Unlike Aransas County, Refugio County jury trials may be conducted in Goliad and/or Victoria Counties only if plaintiff waives his or her right to a jury trial in Refugio County.<sup>10</sup>

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<sup>3</sup> Tex. Sup. Ct. Order of Aug. 29, 2017, Misc. Docket No. 17-9098, ¶ 4 (emphasis added).

<sup>4</sup> Tex. Sup. Ct. Order of Aug. 29, 2017, Misc. Docket No. 17-9099, ¶ 2, *amended by* Tex. Sup. Ct. Order of Aug. 30, 2017, Misc. Docket No. 17-9101, ¶ 2.

<sup>5</sup> *See* Tex. Sup. Ct. Order of Aug. 29, 2017, Misc. Docket No. 17-9099, ¶ 3, *amended by* Tex. Sup. Ct. Order of Aug. 30, 2017, Misc. Docket No. 17-9101, ¶ 3.

<sup>6</sup> Tex. Sup. Ct. Order of Aug. 30, 2017, Misc. Docket No. 17-9102, ¶ 3.

<sup>7</sup> Tex. Sup. Ct. Order of Sept. 5, 2017, Misc. Docket No. 17-9111, ¶¶ 2-3 (effective Aug. 28, 2017).

<sup>8</sup> Tex. Sup. Ct. Order of Aug. 30, 2017, Misc. Docket No. 17-9100, ¶ 2; Tex. Ct. Crim. App. Order of Aug. 30, 2017, Misc. Docket No. 17-011, ¶ 2.

<sup>9</sup> Tex. Sup. Ct. Order of Sept. 1, 2017, Misc. Docket No. 17-9110, ¶ 2; Tex. Ct. Crim. App. Order of Sept. 1, 2017, Misc. Docket No. 17-012, ¶ 2.

<sup>10</sup> *Compare* Tex. Sup. Ct. Order of Aug. 30, 2017, Misc. Docket No. 17-9100, ¶ 2, and Tex. Ct. Crim. App. Order of Aug. 30, 2017, Misc. Docket No. 17-011, ¶ 2, *with* Tex. Sup. Ct. Order of Sept. 1, 2017, Misc. Docket No. 17-9110, ¶ 2; Tex. Ct. Crim. App. Order of Sept. 1, 2017, Misc. Docket No. 17-012, ¶ 2.