

TEXAS SUPREME COURT ADVISORY

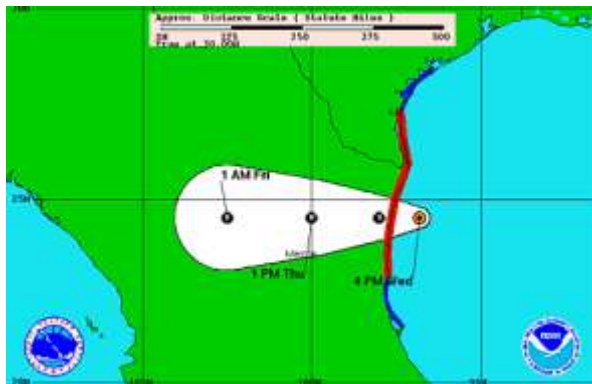
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SOUTH TEXAS COURTS CLOSED, BUT PROCEDURES READY FOR EMERGENCY FILINGS

In advance of Hurricane Alex's landfall, courts have closed across the Lower Rio Grande Valley as Alex's track projects across far northern Mexico. Texas courts officials hold a presence at the State Emergency Operations Center in Austin and procedures implemented in Hurricane Rita's aftermath assure that emergency filings can be handled by standing agreements among counties.

"When a courthouse says 'we're closed,' the agreements among counties nevertheless give litigants an alternate venue for resolving essential matters," said Justice Don R. Willett, the Court's liaison for emergency preparation.



"I remind bar associations, courts and court clerks that websites for the Supreme Court, the Office of Court Administration and those in affected counties within the hurricane-warning region will display up-to-date information about alternatives and procedures," said Montgomery County District Judge Olen Underwood, the regional presiding judge in Southeast Texas and Texas courts' emergency-preparation director. "As we already know this will not allow us to have business as usual, but it will provide

continuity of operations to protect life, limb and property until the storm passes."

Underwood issued [statutory reminders](#) to South Texas lawyers by email Wednesday.

A hurricane warning continued late Wednesday morning for the Texas coast south of Baffin Bay, south of Corpus Christi and east of Kingsville, to the Rio Grande. The Texas coast north from Baffin Bay to Port O'Connor, on the south edge of Matagorda Bay, was under a tropical storm warning.

At 2 p.m. Alex was estimated to be 175 miles southwest of Brownsville, its counterclockwise storm spiral threatening hurricane-force winds within 60 miles of the eye and tropical-storm winds as far out as 200 miles. Willacy and Cameron counties were under the hurricane-wind warning and the rest of the Valley threatened by torrential rains.

State court administrators were working with a committee that coordinates lawyer-assistance efforts in disasters, such as referring people with disaster-related legal needs to volunteer attorneys, said Carl Reynolds, the Office of Court Administration's executive director.

Closings

STATEMENT BY JUDGE OLEN UNDERWOOD

With the closure or possible closure of certain courts in the South Texas region due to impending Hurricane Alex, attorneys are reminded of the following statutes:

1) Application for Writ of Injunction - Hearing by Nonresident District Judge

An attorney may ask a nonresident district judge to hear an application for a writ of injunction if the resident judge "cannot hear and act on the application because of his absence, sickness, inability, inaccessibility, or disqualification." (See section 65.022, Civil and Practice and Remedies Code);

2) Location of Proceedings Following Certain Disasters

If a disaster precludes a district court, statutory county court, statutory probate court, or constitutional county court in a first tier or second tier coastal county from hearing proceedings at the county seat of that county, the presiding judge of the administrative judicial region, with the approval of the affected court, may designate an alternate location at which the court may conduct its proceedings. (See sections 24.033, 25.0019, 25.0032, and 26.009, Government Code); and

3) Hearing Cases - Section 74.094, Government Code

Sec. 74.094. HEARING CASES.

(a) A district or statutory county court judge may hear and determine a matter pending in any district or statutory county court in the county regardless of whether the matter is preliminary or final or whether there is a judgment in the matter. The judge may sign a judgment or order in any of the courts regardless of whether the case is transferred. The judgment, order, or action is valid and binding as if the case were pending in the court of the judge who acts in the matter. The authority of this subsection applies to an active, former, or retired judge assigned to a court having jurisdiction as provided by Subchapter C.

(b) The judges shall try any case and hear any proceeding as assigned by the local administrative judge.

(c) The clerk shall file, docket, transfer, and assign the cases as directed by the local administrative judge in accordance with the local rules.

(d) Judges of district courts and statutory county courts may serve as masters and magistrates of courts, other than their own, subject to other provisions of law and court rules.

(e) A judge who has jurisdiction over a suit pending in one county may, unless objected to by any party, conduct any of the judicial proceedings except the trial on the merits in a different county.

(f) A pretrial judge assigned to hear pretrial matters in related cases under Rule 11, Texas Rules of Judicial Administration, may hold pretrial proceedings and hearings on pretrial matters for a case to which the judge has been assigned in:

(1) the county in which the case is pending; or

(2) a county in which there is pending a related case to which the pretrial judge has been

assigned.