



Appeals+ The Right Addition to Your Trial Team

[What Kinds of Orders Are Subject to Appeal in Texas?](#)

Posted on September 2, 2008 by [D. Todd Smith](#)

This is the second installment of my series entitled "[20 Questions About Texas Appellate Practice](#)." The question answered here is: "What kinds of orders are subject to appeal in Texas?" Visit the original post (linked above) for the list of questions updated with links to their respective answers.

Generally, a trial court's rulings in civil cases are not subject to appeal until a final judgment has been rendered. To be final, a judgment must dispose of all parties and issues. No particular form or "magic words" are required.

The tests for finality depend on whether the judgment at issue followed a conventional trial on the merits. If so, finality is presumed unless the judgment is intrinsically interlocutory or the court ordered separate trials on certain issues. When a judgment is presumed final and the presumption is not rebutted, claims that are not mentioned explicitly in the judgment may be disposed of by implication.

A judgment rendered without a conventional trial on the merits is final only if it actually disposes of all claims and parties or states with unmistakable clarity that it is a final judgment as to all claims and parties. The second part of this test is met by including language such as "this judgment finally disposes of all claims and all parties and is appealable." This analysis may require reviewing the record to determine what claims were asserted against what parties and which claims the court intended to address.

The general finality rule has several statutory exceptions. The most common examples of appealable interlocutory orders are ones that:

- appoint a receiver or trustee, or overrule a motion to vacate an order appointing a receiver or trustee;
- certify or refuse to certify a class;
- grant or refuse a temporary injunction, or grant or overrule a motion to dissolve a temporary injunction;

- deny a motion for summary judgment based on an assertion of immunity by an individual officer or employee of the state or a political subdivision;
- deny a motion for summary judgment based on a claim against or defense by a member of the media or a person whose communication is published, arising under constitutional free speech or free press provisions or the state libel statute;
- grant or deny a special appearance, except in a suit under the Family Code;
- grant or deny a plea to the jurisdiction by a governmental unit;
- grant or deny a motion to dismiss a health care liability claim based on expert-report requirements;
- deny a motion to compel arbitration or grant a stay of arbitration; or
- affect a party in a multi-plaintiff venue contest.

Texas also has a little-used “permissive” appeal statute authorizing review of an otherwise-unappealable interlocutory order involving a controlling question of law.

Interlocutory appeals are accelerated by rule and must be perfected within twenty days after the trial court signs the order being appealed. In most cases, an interlocutory appeal will stay commencement of a trial pending resolution of the appeal. All proceedings—not just the trial setting—are stayed in interlocutory appeals involving class actions, government immunity motions for summary judgment, and government pleas to the jurisdiction.

Recent statutory amendments have significantly expanded the Texas Supreme Court’s jurisdiction to review interlocutory orders, which historically have been considered final in the courts of appeals.