

## State Court Jurisdiction Expanded to Allow for Permissive Appeals

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January 1, 2002 Lynne Liberato

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PRACTICES Appellate

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Interlocutory orders issued in Texas state district courts may now be immediately appealed, with the important requirement that the parties must agree to the appeal. While this requirement will significantly limit the application of the new statute, in appropriate situations the new statute will allow intermediate review of the district court's ruling without the expense of full discovery and the uncertainty of a trial on the merits.

The procedure will be most useful when a trial court 1) grants a partial summary judgment on a determinative issue of law; 2) decides some other preliminary matter on an issue of first impression; 3) violates clear precedent; or 4) must make a close call.

The 2001 Legislature added Texas Civil Practices & Remedies Code § 51.014(d)-(f) to provide for permissive appeals in district court civil actions not otherwise subject to interlocutory appeal. In addition to the requirement that the parties agree, the statute requires that 1) the district court issue a written order for interlocutory appeal; 2) the parties agree that the order involves "a controlling question of law as to which there is a substantial ground of difference of opinion," and 3) the parties agree that the immediate appeal "may materially advance the ultimate termination of the litigation." *Id.* § 51.014(d).

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