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Editors

Hon. James M. Mosley

316<sup>th</sup> District Judge

Kim Mosley

## Contents

ADMINISTRATIVE LAW.....	2
CIVIL PROCEDURE.....	8
CONSTITUTIONAL LAW.....	31
CONTRACT LAW.....	33
CRIMINAL LAW.....	46
ELECTION LAW.....	85
EMPLOYMENT LAW.....	86
ENERGY LAW.....	94
ESTATE AND PROBATE LAW.....	100
FAMILY LAW.....	103
GOVERNMENTAL ENTITIES.....	110
INSURANCE LAW.....	114
JUVENILE LAW.....	116
PROPERTY LAW.....	118
TORTS.....	127

# ADMINISTRATIVE LAW

[Exxon Mobil Glob. Servs. v. State Off. of Admin. Hearings](#), No. 15-24-00034-CV, [2025 WL 3492057](#) (Tex. App. Dec. 5, 2025)

***SOAH had no jurisdiction to hear tax appeal because the property was classified as industrial therefore no duty to hold hearing on the issue-district court is proper forum***

**Facts:** Exxon Mobil Global Services (EMGS) previously operated computer/telecom equipment at two Houston locations but vacated both sites in 2021 after relocating to a new corporate campus. Despite EMGS asserting that the equipment was removed or scrapped before January 1,

2021, the Harris County Appraisal District (HCAD) rolled over the prior year's appraised value of \$45 million and classified the property as industrial. The Appraisal Review Board denied EMGS's protests. EMGS appealed to SOAH rather than district court. The Administrative Law Judge dismissed the appeals, concluding SOAH lacked jurisdiction over tax appeals involving industrial property. EMGS then sought mandamus in Travis County district court to compel SOAH to hold an evidentiary hearing on the property classification.

**Issues:** (1) Did the SOAH ALJ have a ministerial duty to conduct an evidentiary hearing to determine whether the property was correctly classified as industrial? (2) Did the refusal to hold such a hearing violate EMGS's constitutional right to due process?

**Holding:** No on both issues. The 15<sup>th</sup> Court of Appeals held that the ALJ acted within the limits of her authority and owed no ministerial duty to hold a hearing on property classification. SOAH's jurisdiction in tax appeals is expressly limited by statute to non-industrial property, and the Legislature did not authorize SOAH to decide classification disputes. EMGS's due-process claim also failed because it elected to pursue review in SOAH, whereas district courts have general jurisdiction and could have resolved the classification question. The district court properly granted SOAH's plea to the jurisdiction and dismissed the mandamus petition.

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KEN PAXTON, IN HIS OFFICIAL CAPACITY AS ATTORNEY GENERAL FOR THE STATE OF TEXAS, AND THE OFFICE OF THE ATTORNEY GENERAL FOR THE STATE OF TEXAS, Appellants v. DELIA GARZA, Et Al, Appellees, No. 15-25-00116-CV, 2025 WL 3764955 (Tex. App. Dec. 30, 2025)

**Government Code § 41.006 does not authorize the Attorney General to promulgate reporting rules for local prosecutors but temp. injunction overbroad to the extent it applied to nonparties.**

**Facts:** The Texas Attorney General adopted administrative rules requiring district and county attorneys in counties with populations over 400,000 to submit detailed initial, quarterly, and annual reports concerning criminal cases, internal policies, and case files, with noncompliance constituting official misconduct and exposing prosecutors to removal proceedings. Several elected prosecutors and counties sued, arguing the Attorney General lacked authority to promulgate the rules, and obtained a temporary injunction barring enforcement.

**Issues:** (1) Does Texas Government Code § 41.006 grant the Attorney General authority to promulgate administrative rules requiring local prosecutors to submit detailed criminal-case reports? (2) Did the plaintiffs establish a probable, imminent, and irreparable injury justifying a temporary injunction? (3) Did the temporary injunction improperly extended to nonparties?

**Holding:** The 15<sup>th</sup> Court of Appeals held that § 41.006 does not grant the Attorney General rulemaking authority, either expressly or by implication, and that the trial court did not abuse its discretion in finding probable irreparable harm; however, the court reversed the injunction to the extent it applied to nonparties and remanded with instructions to limit relief to the named plaintiffs. Remanded for further proceedings.

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**TCEQ erred in interpreting the Water Code to conclude that environmental flow standards eliminated the need for a site-specific assessment of the effects of a proposed water diversion on fish and wildlife habitats, requiring reversal of the permit approval.**

**Facts:** The Guadalupe-Blanco River Authority (GBRA) applied to the Texas Commission on Environmental Quality (TCEQ) for a permit to divert and use 75,000 acre-feet of water annually from the Guadalupe River as part of the Mid-Basin Water Supply Project. The permit also authorized storage of up to 125,000 acre-feet of water in off-channel reservoirs and allowed use of the water in nearby basins. After a contested administrative hearing before the State Office of Administrative Hearings (SOAH), the administrative law judges recommended granting the permit but also recommended that TCEQ conduct additional environmental assessments regarding the effects of the diversion on fish and wildlife habitats and require more precise information about diversion and reservoir locations. TCEQ ultimately granted the permit but rejected the ALJs' recommendations for additional environmental assessments and additional location information. The National Wildlife Federation (NWF) sought judicial review under the Texas Administrative Procedure Act. NWF alleged that diverting water upstream would reduce freshwater inflows to San Antonio Bay, harming fisheries and the economic interests of one of its members who operated a seafood business dependent on those waters. The district court reversed the TCEQ order and remanded the case to the agency. TCEQ and GBRA appealed.

**Issues:** (1) Does the National Wildlife Federation have standing to seek judicial review of TCEQ's order granting the water-rights permit? (2) Did TCEQ err by concluding that it did not need to conduct a site-specific assessment of the permit's effects on fish and wildlife habitats because environmental flow standards had already been adopted for the river basin? (3) Was TCEQ required to evaluate the environmental impact of off-channel storage reservoirs as well as the diversion itself? (4) Did any legal error by TCEQ prejudice the substantial rights of the National Wildlife Federation? (5) Did TCEQ act arbitrarily by approving a permit application that did not identify precise diversion locations?

**Holding:** The 15<sup>th</sup> Court of Appeals affirmed the district court's judgment reversing the TCEQ permit and remanding the case to the agency. The court held that NWF had standing because one of its members suffered a particularized economic injury—reduced freshwater inflows could harm his seafood business in San Antonio Bay. TCEQ misinterpreted Texas Water Code §11.147(e-3) by concluding that the existence of environmental flow standards eliminated the need to perform a site-specific assessment of the diversion's effects on fish and wildlife habitats under §11.152. TCEQ was not required to evaluate the environmental impact of the off-channel reservoirs, because the reservoirs themselves did not constitute an appropriation site under the Water Code. The agency's legal error prejudiced NWF's substantial rights because TCEQ granted the permit without performing the required environmental analysis. The court declined to decide whether the lack of precise diversion locations rendered the permit arbitrary, because the case was already being remanded for reconsideration.

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[NuStar Energy, L.P. v. Hancock](#), No. 24-0037, [2026 WL 706012](#) (Tex. Mar. 13, 2026)

**For Texas franchise-tax apportionment, sales of tangible personal property are sourced to Texas when the seller transfers possession and control of the goods to the buyer in Texas, regardless of where the buyer later transports or uses the goods.**

**Facts:** NuStar Energy sold bunker fuel used to power large ocean-going vessels at Texas ports. The fuel was delivered directly to ships—most of which were foreign-registered vessels—while they were docked in Texas. For tax years 2011–2013, NuStar initially treated those sales as Texas receipts for purposes of the Texas franchise tax apportionment formula, which determines how much of a multistate business’s revenue is attributable to Texas. NuStar later sought a \$2.4 million tax refund, arguing that those fuel sales should not be counted as Texas receipts because the fuel was ultimately used outside Texas waters after the ships departed the ports. The Texas Comptroller denied the refund. NuStar then filed suit challenging administrative rules adopted by the Comptroller that attribute receipts from the sale of tangible personal property to Texas when the buyer takes possession of the goods in Texas, regardless of where the goods are later used. NuStar argued that the statute governing franchise-tax apportionment—Texas Tax Code §171.103(a)(1)—should instead source receipts based on the ultimate destination or use of the goods, not the location where the buyer receives them. The trial court granted summary judgment for the Comptroller, and the court of appeals affirmed. NuStar petitioned the Texas Supreme Court.

**Issue:** Does Texas Tax Code §171.103(a)(1) source sales of tangible personal property to Texas based on the place where the buyer receives the goods or based on the ultimate destination or use of the goods?

**Holding:** Affirmed. The Texas Supreme Court held that section 171.103(a)(1) sources sales receipts to Texas when the seller transfers possession and control of goods to the buyer in Texas, even if the buyer later transports and uses those goods outside the state. Because the statute adopts a place-of-delivery (transfer-of-possession) test, the Comptroller’s administrative rules using that approach are consistent with the statute and therefore valid.

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[Cockrell Inv. Partners, L.P., Petitioner, v. Middle Pecos Groundwater Conservation District; Ty Edwards, in His Off. Capacity as Gen. Manager of the Middle Pecos Groundwater Conservation District; & Fort Stockton Holdings, L.P., Respondents Cockrell Inv. Partners, L.P., Petitioner.](#), No. 23-0593, [2026 WL 705764](#) (Tex. Mar. 13, 2026)

**Non-party challenging a groundwater district’s denial of party status need not follow the Water Code’s 90-day rehearing procedure applicable to permit applicants or parties; exhaustion occurs under the district’s own reconsideration rule.**

**Facts:** Cockrell Investment Partners owned a pecan orchard in Pecos County and irrigated it with groundwater from the Edwards–Trinity Aquifer. Neighboring landowner Fort Stockton Holdings (FSH) also pumped water from the aquifer and sought permits from the Middle Pecos Groundwater Conservation District to significantly increase its groundwater production so it could sell water to several West Texas cities. Cockrell opposed the expanded pumping and sought party status in administrative proceedings before the groundwater district. In 2017, when FSH amended an earlier permit application, the District denied Cockrell party status because it concluded the application was a continuation of a 2009 proceeding and the deadline to intervene had passed. Later, when FSH sought to renew the permit in 2020, Cockrell again requested party status, but the District refused to act on the request. Cockrell filed suits seeking judicial review of the District’s refusal to grant it party status under Texas Water Code §36.251. The trial courts dismissed or granted summary judgment against Cockrell, and the court of appeals affirmed, holding that Cockrell failed to exhaust administrative remedies because it filed suit before waiting the 90-day rehearing period provided by the Water Code.

**Issues:** (1) Must a non-party challenging the denial of party status in groundwater permit proceedings follow the 90-day rehearing process in Texas Water Code §§36.412–36.413 before seeking judicial review? (2) Did Cockrell exhaust administrative remedies and satisfy the statutory prerequisites for the Water Code’s waiver of governmental immunity?

**Holding:** The Texas Supreme Court reversed and remanded, holding that the statutory 90-day rehearing procedure applies only to permit applicants and parties to the administrative proceeding. Because Cockrell was neither an applicant nor a party and challenged only the denial of party status, not the permit decision itself—its administrative remedies were governed instead by the District’s rule providing for a 45-day automatic denial of reconsideration requests. After that period elapsed, Cockrell had exhausted administrative remedies and could seek judicial review.

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[KENEDY COUNTY WIDE SCHOOL DISTRICT, Appellant v. KELLY HANCOCK, TEXAS COMPTROLLER OF PUBLIC ACCOUNTS, IN HIS OFFICIAL AND INDIVIDUAL CAPACITY, Appellee](#), No. 15-24-00079-CV, [2026 WL 844663](#) (Tex. App. Mar. 26, 2026)

***Comptroller is not required to adopt ARB appraisal reductions in the Property Value Study; “appropriate adjustment” is discretionary and upheld if supported by substantial evidence***

**Facts:** Texas law requires the Comptroller to conduct a Property Value Study (PVS) to ensure equity in school funding across districts. Local property values are initially determined by county appraisal districts (CADs) and may be reduced through taxpayer protests before appraisal review boards (ARBs). In 2021, the Kenedy County CAD appraised native pasture land at \$100/acre. After protests by large ranch owners, the ARB reduced values to \$84.69/acre. The Comptroller, conducting the statewide PVS, instead appraised the land at \$105.20/acre based on income-capitalization methods. The school district challenged the Comptroller’s valuation, arguing that the Comptroller was required to adjust values downward to match the ARB reductions, or alternatively that the Comptroller’s valuation lacked substantial evidence. An

administrative law judge agreed with the district, but the Comptroller rejected that recommendation. The trial court affirmed the Comptroller, and the district appealed.

**Issues:** (1) Does Texas Government Code § 403.302(b)(4) require the Comptroller to adjust property values in the PVS to reflect ARB-ordered reductions (including for productivity-value appraisals like open-space land)? (2) What constitutes an “appropriate adjustment” under the statute, and did the Comptroller abuse his discretion or act without substantial evidence in declining to match ARB reductions?

**Holding:** The 15<sup>th</sup> Court of Appeals affirmed the trial court and upheld the Comptroller’s valuation. Section 403.302(b)(4) requires the Comptroller to make “appropriate adjustments” for differing appraisal levels but does not require dollar-for-dollar adoption of ARB reductions, even for productivity-value land. The statute grants the Comptroller discretion to determine what adjustment is “appropriate,” consistent with the PVS’s purpose of ensuring statewide equity and uniformity in school funding. The Comptroller’s income-capitalization methodology (including lease income, expenses, and statutory capitalization rate) constituted substantial evidence supporting the \$105.20/acre valuation, while the ARB reductions were conclusory and unsupported. Comptroller is affirmed.

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[ASPIRE POWER VENTURES, LP, Appellant v. PUBLIC UTILITY COMMISSION OF TEXAS, ELECTRIC RELIABILITY COUNCIL OF TEXAS, THOMAS GLEESON, LORI COBOS, JIMMY GLOTFELTY, KATHLEEN JACKSON, AND COURTNEY HJALTMAN, Appellees](#), No. 15-24-00118-CV, [2026 WL 844708](#) (Tex. App. Mar. 26, 2026)

***ERCOT protocols are not APA rules, PUC approval does not trigger APA requirements, and challenges must proceed through PUC administrative processes; failure to exhaust remedies defeats jurisdiction.***

**Facts:** The Texas Legislature requires the Electric Reliability Council of Texas (ERCOT) to ensure the reliability of the state’s electric grid, including procuring ancillary services to balance supply and demand. ERCOT adopted and modified a program known as the ERCOT Contingency Reserve Service (ECRS) through its internal protocol process, subject to approval by the Public Utility Commission of Texas (PUC). Aspire Power Ventures, a market participant, challenged ECRS, alleging it distorted electricity prices and was unlawfully adopted. Aspire filed suit seeking declaratory relief, arguing that ERCOT protocols and PUC approval orders constituted “rules” under the Administrative Procedure Act (APA) and were invalid for failure to comply with APA rulemaking requirements. Aspire also asserted ultra vires claims against PUC commissioners and attempted to invoke statutory waivers of sovereign immunity. The trial court granted pleas to the jurisdiction filed by the PUC and ERCOT and dismissed Aspire’s claims.

**Issues:** (1) Do ERCOT-adopted protocols and PUC approval orders constitute “rules” under the APA such that § 2001.038 waives sovereign immunity for a declaratory judgment challenge? (2) Did the PUC commissioners act outside their statutory authority by permitting ERCOT to adopt

ECRS and related protocols? (3) Does the PUC have exclusive jurisdiction over disputes involving ERCOT protocols, requiring exhaustion of administrative remedies before suit?

**Holding:** The 15<sup>th</sup> Court of Appeals affirmed dismissal for lack of jurisdiction. The court held that ERCOT—not the PUC—adopts protocols, and ERCOT is not a state agency; therefore, the APA does not apply, and § 2001.038 does not waive sovereign immunity. PUC approval merely ratifies ERCOT’s actions and does not constitute rulemaking subject to the APA. The PUC acted within its statutory authority in delegating responsibilities to ERCOT and in approving reliability-related programs such as ECRS. The PUC has exclusive jurisdiction over ERCOT protocol disputes, and Aspire’s failure to pursue administrative remedies independently bars suit. Dismissed.

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# CIVIL PROCEDURE

## -Business Court Jurisdiction

IN RE COLOSSUSBETS LIMITED; ROOK TX, LP; ROOK GP, LLC; QAWI AND QUDDUS, INC; LOTTERY NOW, INC., No. 15-25-00150-CV, 2026 WL 392034 (Tex. App. Feb. 12, 2026)

**Business Court may reconsider remand ruling and remand case when plaintiff amends pleadings to remove jurisdiction-conferring claims, and such amendments waive those claims and eliminate Business Court jurisdiction.**

**Facts:** Jerry Reed won a \$7.5 million Lotto Texas jackpot and sued ColossusBets Limited and related entities, alleging they had “rigged” an earlier lottery drawing by purchasing nearly all possible number combinations and winning \$95 million, thereby reducing the jackpot Reed later won. Some defendants removed the case to the Texas Business Court, asserting jurisdiction over claims involving corporate governance and internal affairs. The Business Court initially denied Reed’s motion to remand. Reed then amended his pleadings to expressly remove and disclaim all claims implicating Business Court jurisdiction and filed a renewed motion to remand. After reconsideration, the Business Court granted remand to the district court. Defendants sought mandamus relief, arguing that once Business Court jurisdiction properly attached, Reed could not divest that jurisdiction by amending his pleadings.

**Issues:** (1) Does the Texas Business Court have authority to reconsider an earlier order denying remand after the plaintiff amends pleadings to remove claims within the Business Court’s jurisdiction? (2) Can a plaintiff divest the Business Court of jurisdiction by amending pleadings to eliminate claims falling within the court’s statutory jurisdiction? (3) Did the Business Court abuse its discretion by remanding the case after Reed amended his pleadings?

**Holding:** The 15<sup>th</sup> Court of Appeals held that the Business Court had authority to reconsider its prior remand ruling and properly remanded the case after Reed amended his pleadings to eliminate all claims within Business Court jurisdiction. Because Reed’s amended pleadings

disclaimed jurisdiction-conferring claims and thereby waived them, the Business Court did not abuse its discretion. The court denied mandamus relief.

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## **-Consulting Experts**

[In re Quintero](#), No. 14-25-00757-CV, [2026 WL 233180](#) (Tex. App. Jan. 29, 2026)

***Serving § 18.001 counteraffidavits does not waive consulting-expert privilege, and a trial court abuses its discretion by compelling the depositions of consulting experts who are not designated as testifying experts and have no firsthand knowledge of the case.***

**Facts:** The underlying lawsuit arose from a motor vehicle accident in which the plaintiffs sought damages for personal injuries. To prove the reasonableness and necessity of their medical expenses, the plaintiffs served medical billing affidavits under Texas Civil Practice and Remedies Code § 18.001. The defendants responded by serving five counteraffidavits challenging the reasonableness and necessity of the plaintiffs' medical expenses. One counteraffiant was a testifying expert designated for trial. The other four individuals were consulting experts who reviewed medical records and prepared counteraffidavits but were not designated as testifying experts, had no personal knowledge of the accident or treatment, and whose opinions were not reviewed by the testifying expert. The plaintiffs moved to compel the depositions of the consulting experts to explore the basis of their counteraffidavits. The trial court granted the motion and ordered the defendants to produce the consulting experts for deposition, warning that failure to comply would result in the counteraffidavits being struck. The defendants sought mandamus relief from the court of appeals.

**Issues:** (1) May consulting experts who sign counteraffidavits under Texas Civil Practice and Remedies Code § 18.001 be deposed when they are not designated as testifying experts and have no firsthand knowledge of the relevant facts? (2) Does serving a § 18.001 counteraffidavit waive the consulting expert privilege or constitutes offensive use of the privilege? (3) Did the trial court abuse its discretion by compelling depositions of consulting experts and threatening to strike the counteraffidavits if the depositions were not produced?

**Holding:** The Fourteenth Court of Appeals conditionally granted mandamus relief, holding that the trial court abused its discretion by ordering the depositions of the consulting experts. The court held that consulting experts are protected from discovery unless they are designated as testifying experts or their opinions are reviewed by a testifying expert. Serving counteraffidavits under § 18.001 does not waive the consulting expert privilege, because the statute is procedural and merely places the parties in the same position as if no affidavits had been filed. The consulting experts had no personal knowledge of relevant facts, and their only involvement was reviewing records to prepare counteraffidavits, so their opinions remained privileged. Because the discovery order required disclosure of privileged consulting-expert information, the trial court exceeded the permissible scope of discovery, and mandamus relief was appropriate. The court therefore directed the trial court to vacate the portion of its order requiring the depositions

of the consulting experts, though the deposition of the defendants' designated testifying expert could proceed.

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## **-Discovery**

[Affirmation Holdings, LLC, Appellant v. Clear Prop. Mgmt., LLC, Appellee](#), No. 03-25-00112-CV, [2025 WL 3689233](#) (Tex. App. Dec. 19, 2025)

**Because counsel knowingly missed discovery deadlines and showed callous disregard for the rules, the trial court did not abuse its discretion in refusing to withdraw deemed admissions and granting summary judgment based on those admissions.**

**Facts:** Affirmation Holdings, LLC contracted with Clear Property Management, LLC to manage an apartment complex. Clear sued Affirmation for breach of contract, seeking unpaid management fees, operating expenses, and damages exceeding \$42,000. Clear served requests for admissions on Affirmation, but after a substitution of counsel, Affirmation failed to timely respond—even after requesting and receiving an agreed extension. As a result, the requests were deemed admitted under Texas Rule of Civil Procedure 198.2. Clear moved for traditional summary judgment relying solely on the deemed admissions, which conclusively established the elements of its breach-of-contract claim and damages. Affirmation responded by moving to withdraw the deemed admissions, citing counsel's workload, medical issues, and other circumstances, but presented no supporting evidence. The trial court denied the motion to withdraw, granted summary judgment for Clear, and awarded attorney's fees.

**Issues:** (1) Did the trial court abuse its discretion by denying Affirmation's motion to withdraw deemed admissions? (2) May summary judgment be granted based solely on merits-preclusive deemed admissions when the record reflects conscious or callous disregard of discovery deadlines?

**Holding:** No and yes. The Third Court of Appeals held that the trial court did not abuse its discretion in denying the motion to withdraw deemed admissions because the record supported a finding that Affirmation's counsel consciously and callously disregarded known discovery deadlines, and the deemed admissions were not overly broad; therefore, the admissions conclusively established Clear's breach-of-contract claim and supported summary judgment. Affirmed.

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[IN RE ROTH PRODUCTS OF TEXAS, INC. AND GREGORY VAUGHT, RELATORS](#), No. 07-25-00391-CV, [2026 WL 362626](#) (Tex. App. Feb. 9, 2026)

**Mandamus relief denied because a subpoena seeking 25 hours of cell-phone records—while broad—contained sufficient privacy safeguards, and relators failed to show they lacked an adequate remedy by appeal.**

**Facts:** Gregory Vaught, while driving an 18-wheeler for Roth Products of Texas, Inc., rear-ended a Lubbock County Sheriff's patrol car that was partially blocking traffic. Two deputies were injured and sued Roth Products and Vaught, alleging Vaught's negligence, including possible

cell-phone use, caused the collision. The plaintiffs subpoenaed Verizon seeking Vaught's cell-phone records covering a four-day period surrounding the accident. Roth Products and Vaught moved to quash the subpoena, but the trial court denied their motion. Upon reconsideration, the trial court modified the subpoena to limit production to a 25-hour period (24 hours before and one hour after the collision) and established a protocol allowing redaction of confidential or irrelevant information before disclosure. Relators then sought mandamus relief, arguing the subpoena remained overbroad and violated governing discovery principles.

**Issues:** Did the trial court abuse its discretion by ordering production of cell-phone records covering a 25-hour period surrounding the accident?

**Holding:** The 7<sup>th</sup> Court of Appeals denied mandamus relief. Although a 25-hour subpoena period may be broader than ideal, the trial court's order included procedural safeguards to protect confidential and irrelevant information, including redaction protocols and an opportunity to assert privilege. Relators failed to demonstrate that the discovery order imposed such an onerous burden or compelled disclosure of irrelevant or privileged information in a manner that deprived them of an adequate remedy by appeal. Because relators did not establish both an abuse of discretion and lack of an adequate appellate remedy, mandamus relief was not warranted.

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## **-Expert Designation**

*Diamond Hydraulics, Inc. v. GAC Equip., LLC, No. 24-1049, 2026 WL 844386, (3/27/26)*

***Good cause existed for defendant to offer the testimony of an untimely identified expert.***

**Facts:** Austin Crane Service hired Diamond Hydraulics to repair one of its cranes. That repaired crane later bent, and Austin Crane sued Diamond for breach of contract and breach of warranty. Diamond retained an engineering firm to study the crane and designated one of its engineers as an expert witness. Shortly before trial, that witness changed jobs, moved out of state, and refused to testify. Diamond filed a motion to substitute a new testifying expert, which the trial court denied. Diamond proceeded to trial without a causation expert. The jury found for Austin Crane, Diamond appealed, and the court of appeals affirmed. The Texas Supreme Court granted the petition. <https://www.txcourts.gov/media/1462490/241049.pdf>

**Issue:** Was there good cause for Diamond Hydraulics to offer the testimony of an untimely identified expert?

**Holding:** Yes. The Texas Supreme Court held that the trial court abused its discretion when it found that Diamond lacked good cause for its untimely designation. While the "good cause" standard is demanding, it was nevertheless met in this case. Because Diamond lacked control over the original expert's unavailability, attempted to find alternatives, and relied on this critical testimony, there was good cause for the late expert designation.

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## **-Finality of Judgments**

[Nicandros v. Mourant Ozannes](#), No. 01-25-01087-CV, [2026 WL 471750](#) (Tex. App. Feb. 19, 2026)

**Recognition of a foreign money judgment under Chapter 36A does not automatically create an appealable judgment. The Texas recognition order must itself be sufficiently definite (including ascertainable recovery) to qualify as final and enforceable.**

**Facts:** Mourant Ozannes, a law firm, obtained a money judgment in the Cayman Islands against Steve Nicandros and another defendant. The firm filed a Texas action seeking recognition of the Cayman judgment under the Uniform Foreign-Country Money Judgments Recognition Act (Chapter 36A). The trial court signed a brief order stating that the Cayman judgment was recognized and enforceable in Texas. However, the recognition order did not specify the amount owed, did not clearly identify who owed what to whom, and did not reference severance of the co-defendant. Nicandros appealed the recognition order.

**Issues:** (1) Does Texas or foreign law govern whether a recognition order is final and appealable? (2) Is a Texas order recognizing a foreign money judgment final and appealable when it does not specify the amount of recovery or otherwise provide sufficient certainty for execution?

**Holding:** Before addressing the merits, the 1<sup>st</sup> Court of Appeals raised a jurisdictional question: whether the recognition order was a final, appealable judgment. Texas procedural law governs appealability of a recognition order. A judgment must be definite and certain so that ministerial officers can execute it without additional fact-finding. Because the recognition order failed to specify the amount owed and required reference to other documents to determine enforcement details, it was not a final judgment. Accordingly, the court dismissed the appeal for want of a final and appealable judgment, expressing no view on the merits of recognition.

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## **-Foreign Judgments**

[NATIONAL UNION FIRE INSURANCE COMPANY OF PITTSBURGH, PA, AND TRAVELERS CASUALTY AND SURETY COMPANY, Appellants v. PAYNE & KELLER COMPANY, BY AND THROUGH ITS DULY-APPOINTED RECEIVER, PETER D. PROTOPAPAS, Appellee](#), No. 14-23-00899-CV, [2026 WL 272449](#) (Tex. App. Feb. 3, 2026)

**Texas corporation's dissolution was interlocutory, so its filing in Texas under the Foreign Judgments Act did not create a final, appealable judgment – interlocutory appeal not available**

**Facts:** Payne & Keller Company, a Texas corporation, voluntarily dissolved in 1986. Decades later, wrongful-death asbestos claims were filed against it in South Carolina. The South Carolina trial court appointed a receiver for Payne & Keller, who asserted insurance-coverage claims against Payne & Keller's insurers, including National Union and Travelers. The South Carolina court later entered an order under Texas Business Organizations Code § 11.153 revoking Payne & Keller's 1986 dissolution on the ground that the dissolution resulted from constructive fraud. The receiver then filed that South Carolina revocation order in a Texas district court under the Uniform Enforcement of Foreign Judgments Act (Chapter 35, CPRC) to domesticate it. The

insurers intervened and moved to vacate the domesticated order, arguing the South Carolina order was not final and was not entitled to full faith and credit. The Texas trial court never ruled on those motions. The insurers appealed. The receiver moved to dismiss the appeal, arguing the insurers lacked standing.

**Issues:** (1) Were the insurers parties with standing to appeal the Texas domestication of the South Carolina revocation order? (2) Did filing the South Carolina revocation order under Chapter 35 create a final, enforceable Texas judgment? (3) If the domesticated order was interlocutory, was there a statutory basis for an interlocutory appeal?

**Holding:** The 14<sup>th</sup> Court of Appeals held that the insurers were parties to the South Carolina revocation order and therefore had standing to appeal the Texas order. The South Carolina revocation order was not final on its face under South Carolina law; therefore, filing it under the Foreign Judgments Act created only an interlocutory Texas order, not a final judgment. Because the order was interlocutory and no statute authorizes an interlocutory appeal, the court lacked appellate jurisdiction. The appeal was therefore dismissed for lack of jurisdiction.

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## **-Forum Non Conveniens**

[IN RE GRAYSON MILL OPERATING, LLC, GRAYSON MILL ENERGY, LLC, AND GRAYSON MILL WILLISTON, LLC, Relators](#), No. 14-25-00645-CV, [2026 WL 541964](#) (Tex. App. Feb. 26, 2026)

**For purposes of Texas's forum non conveniens statute, a plaintiff's residency is determined at filing not when the FNC motion is ruled on – case dismissed in favor of North Dakota forum.**

**Facts:** Eddie Fool and Steven Ledger were severely injured in a 2023 wellsite explosion in Williston, North Dakota. A third injured worker filed suit in North Dakota. Fool and Ledger filed personal-injury suits in Harris County, Texas against several Grayson Mill entities. The accident occurred in North Dakota. The plaintiffs were not Texas residents when the accident occurred. They were not Texas residents when they filed suit. After two defendants filed motions to dismiss on forum non conveniens (FNC) grounds under Texas Civil Practice & Remedies Code § 71.051, the plaintiffs moved to Texas for medical treatment and became Texas residents. The trial court denied the FNC motions. After a new judge took the bench, the defendants filed a motion to reconsider. The trial court again denied dismissal. The defendants sought mandamus relief.

**Issues:** (1) When is a plaintiff's residency determined for purposes of the Texas-resident exception to the forum non conveniens statute (§ 71.051(e))? (2) Does the Texas-resident exception apply when plaintiffs became Texas residents after filing suit? Do the statutory forum non conveniens factors required dismissal under § 71.051(b)?

**Holding:** The 14<sup>th</sup> Court of Appeals held that because the plaintiffs were not Texas residents when the accident occurred or when suit was filed, the Texas-resident exception did not apply. The court emphasized that measuring residency at the time of ruling would invite manipulation

and uncertainty. The court relied on Texas Supreme Court language in *Owens Corning v. Carter* suggesting residency is measured at filing as well as the Dallas Court of Appeals' decision in *Lopez v. Fluor Corp.* The trial court therefore abused its discretion in concluding otherwise. Once the resident exception was inapplicable, the court analyzed the six statutory FNC factors. The court concluded all six factors favored dismissal. Under § 71.051(b), when the factors weigh in favor of an alternate forum, dismissal is mandatory. The court conditionally granted mandamus relief and directed the trial court to vacate the order denying reconsideration and grant the forum non conveniens motions and dismiss the case.

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## **-JNOV**

[HARRY A. BOUKNIGHT, JR., Appellant v. LLANELLY ENTERPRISES, Appellee](#), No. 01-22-00863-CV, [2026 WL 872698](#) (Tex. App. Mar. 31, 2026)

***A party cannot obtain declaratory relief on an unsubmitted essential issue; failure to submit a jury question on ownership was fatal to the claim.***

**Facts:** Bouknight obtained a \$1.3 million judgment against Wilmot and later sought to collect on that judgment by claiming that Wilmot actually owned a \$3.75 million home titled in the name of Llanelly Enterprises. Bouknight alleged that Wilmot and Llanelly conspired to conceal Wilmot's ownership by placing title in Llanelly's name to avoid creditors. At trial, however, the only question submitted to the jury was whether the deed conveying the property to Llanelly was ineffective. The jury answered yes. Bouknight then sought a declaratory judgment that the deed was invalid and that Wilmot owned the property. The trial court granted a judgment notwithstanding the verdict (JNOV), concluding that the jury's answer did not resolve the key issue—ownership—and entered a take-nothing judgment against Bouknight.

**Issues:** (1) Did the trial court err in granting JNOV by disregarding the jury's finding that the deed was ineffective? (2) Did Bouknight's pleadings and jury submission support the declaratory relief sought (ownership of the property)?

**Holding:** The 1<sup>st</sup> Court of Appeals affirmed the JNOV. The court held that Bouknight's pleadings sought a declaration that Wilmot owned the property, but the jury was only asked whether the deed to Llanelly was ineffective. That finding did not determine ownership. Bouknight failed to submit a jury question on the essential issue of ownership, thereby waiving his claim. Because the jury's finding did not support the relief requested and no finding resolved the dispositive issue, the trial court properly granted JNOV and rendered a take-nothing judgment. JNOV proper.

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## **-Motion for New Trial**

[Tabakman v. Tabakman](#), No. 24-0919, [2025 WL 3492090](#) (Tex. Dec. 5, 2025)

***Trial court reversed – wife satisfied the 3 Craddock factors -new trial granted***

**Facts:** The husband sued for divorce, and after multiple unsuccessful service attempts, the trial court authorized alternative service. The process server then posted the divorce papers on the door of the wife's temporary abode. But the wife failed to timely answer, and the trial court orally rendered a default judgment. Before the trial court signed the default divorce decree, the wife filed an answer and a motion for a new trial. The trial court nevertheless signed the decree and denied the new-trial motion. The court of appeals affirmed, concluding that the wife did not satisfy the first *Craddock* element to establish that she was not consciously indifferent in failing to answer.

**Issue:** Is the wife is entitled to a new trial under the *Craddock* test?

**Holding:** Yes. The Supreme Court of Texas reversed and remanded the case to the trial court. The Court held that the wife is entitled to a new trial because she satisfied the three *Craddock* elements: (1) she provided a sufficient excuse with supporting evidence that she was not aware that she had been served or that the citation had been posted on the door, (2) she set up a meritorious defense for a reimbursement claim from the community estate, and (3) she established that a new trial would not cause undue delay or injury to the husband.

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[IN RE PAIGE ELAINE LAUREN AND RAYMOND HENRY TAYLOR, Relators](#), No. 01-25-00984-CV, [2026 WL 363033](#) (Tex. App. Feb. 10, 2026)

***Mandamus relief granted - juror's statements about attorney's fees based on her personal work experience did not constitute an outside influence-trial court abused its discretion by granting a new trial on that basis.***

**Facts:** Paige Lauren and Raymond Taylor sued DV Communities, LLC and others for breach of contract. The case was tried to a jury, which returned a verdict in favor of Lauren and Taylor, awarding approximately \$2,344.67 in damages and \$93,545.10 in attorney's fees. After the verdict was read and the jury dismissed, the trial judge spoke informally with jurors. During that conversation, a juror who had previously worked as a paralegal at a large law firm told other jurors during deliberations that attorneys at her firm charged over \$1,000 per hour and that the plaintiffs' requested attorney's fees were reasonable. She also indicated she helped persuade other jurors on the attorney's fee issue. Based on this information, DV Communities filed a motion for new trial alleging juror misconduct. The trial court granted the motion, finding the juror's statements constituted an impermissible outside influence. Lauren and Taylor sought mandamus relief to overturn the new trial order.

**Issues:** (1) Did the trial court abuse its discretion in granting a new trial based on alleged juror misconduct? (2) Did a juror's statements during deliberations based on her personal knowledge and experience constitute an "outside influence."? (3) Was mandamus relief appropriate to correct the new trial order?

**Holding:** The 1<sup>st</sup> Court of Appeals conditionally granted mandamus relief and ordered the trial court to vacate the new trial order and reinstate the original judgment. The court held that a juror's statements to fellow jurors based on her personal experience and knowledge—even if improper—do not constitute an "outside influence" because they originate from within the jury,

not from an external source. Because the alleged misconduct was not an outside influence, there was no legally valid basis for granting a new trial under Texas Rule of Civil Procedure 327. The trial court therefore abused its discretion in granting a new trial. Mandamus relief was appropriate because orders granting new trials are generally not reviewable by appeal.

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## **-Notice**

[HIRUT ASSEFA DESTA, Appellant v. ABRAHAM AYALEW WASSIHUN, Appellee](#), No. 14-24-00984-CV, [2026 WL 805753](#) (Tex. App. Mar. 24, 2026)

***Pro se email to court constituted an appearance and was deemed filed; lack of notice of trial required new trial and reversal of default divorce decree.***

**Facts:** Husband filed for divorce. Wife, acting pro se, did not file a formal answer but sent an email response addressed to the district clerk (though sent to the court coordinator), explaining her circumstances and requesting time before any default judgment. The court coordinator responded but did not file or forward the email to the clerk. Husband later proceeded to trial without providing Wife notice, and the trial court signed a default divorce decree. Wife later filed a motion for new trial, asserting she had no notice of the trial setting or judgment, and invoked Rule 306a to extend post-judgment deadlines. The trial court found she lacked timely notice but denied her motion for new trial.

**Issues:** (1) Did Wife's email constitute an appearance or answer sufficient to entitle her to notice of trial? (2) Can a document qualify as filed (and thus effective) when it is sent to court personnel but not formally filed by the clerk? (3) Was Wife entitled to a new trial where she did not receive notice of the trial setting leading to the default judgment?

**Holding:** The 14<sup>th</sup> Court of Appeals reversed and remanded, holding the trial court erred in denying a new trial. Informal responses (including letters or emails) that identify the parties and case can qualify as an answer, entitling the party to notice of dispositive proceedings. A document is considered filed when it is placed under the control of the clerk or court system, even if not formally recorded due to clerical error. The coordinator's failure to file the email did not negate its effect. Because Wife appeared in the case, she was entitled to notice of the trial setting, which she did not receive. Lack of notice relieves the movant of proving all *Craddock* elements; thus, Wife was entitled to a new trial.

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## **-Personal Jurisdiction**

[SAILUN GROUP CO., LTD., APPELLANT v. JESSICA SPRADLEY, STEPHEN SPRADLEY, SHERRI REED, MARIANNE KENNA, GLENDA BUELL, KYLE FRASIER, DAN OLIVER, JENNILEE BELL, AND JACKSON BELL, INDIVIDUALLY AND AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JENNIE FRASIER, APPELLEES](#), No. 12-25-00102-CV, [2026 WL 253319](#) (Tex. App. Jan. 30, 2026)

***Texas courts have specific personal jurisdiction over a foreign tire manufacturer because it purposefully availed itself of the Texas market***

**Facts:** Several Texas residents were injured, and one was killed, when a van rolled over on a Texas highway after the tread separated from a Sailun Terramax HLT tire. The tire was manufactured by Sailun Group Co., Ltd., a Chinese company. The plaintiffs sued Sailun and related distribution entities in Texas state court, asserting strict products liability, negligence, breach of warranty, wrongful death, and survival claims. Sailun filed a special appearance, arguing Texas courts lacked personal jurisdiction because Sailun is a foreign manufacturer with no offices, property, employees, or direct sales in Texas and because any Texas contacts were attributable solely to independent distributors. The trial court denied the special appearance, and Sailun filed an interlocutory appeal.

**Issues:** (1) Did Sailun purposefully avail itself of the Texas market under the stream-of-commerce-plus doctrine? (2) Did the plaintiffs show the required “additional conduct” beyond mere placement of the product into the stream of commerce? (3) Did the plaintiffs’ claims arise out of or relate to Sailun’s contacts with Texas? (4) Was Sailun “at home” in Texas such that general jurisdiction existed?

**Holding:** The Twelfth Court of Appeals affirmed the denial of Sailun’s special appearance. The court held that Sailun purposefully availed itself of the Texas market by creating and employing a distribution system—through its wholly owned subsidiary (STA) and distributor (TBC)—that brought its tires into Texas, satisfying the stream-of-commerce-plus test. The plaintiffs’ claims arose out of or related to Sailun’s Texas contacts because Sailun served a Texas market for its tires and the allegedly defective tire failed in Texas, causing the injuries and death at issue. Because specific jurisdiction existed, the court declined to address general jurisdiction.

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[ODYSSEA MARINE, LLC, ODYSSEA MARINE HOLDINGS, INC., AND ODYSSEA VESSELS, LLC, Appellants v. HOWARD WILCOX-CARLETON, Appellee](#), No. 14-24-00303-CV, [2026 WL 616496](#) (Tex. App. Mar. 5, 2026)

***Texas courts lacked specific personal jurisdiction over nonresident maritime defendants where the seaman’s injury occurred in federal waters and the defendants’ Texas business contacts were not substantially connected to the operative facts of the claim.***

**Facts:** Howard Wilcox-Carleton, an Alabama resident and Jones Act seaman, was employed by Odyssey Marine and assigned to the offshore supply vessel M/V Odyssey Phoenix. While the vessel was operating in the Gulf of Mexico in federal waters, Wilcox-Carleton was allegedly struck by an equipment basket operated by a crane from another vessel, causing serious injuries including a fractured hip and pelvic injuries. Wilcox-Carleton sued several entities, including Odyssey Marine, Odyssey Marine Holdings, and Odyssey Vessels, in a Texas district court in Harris County. He asserted claims under the Jones Act, general maritime law (including unseaworthiness), and for failure to pay maintenance and cure. The Odyssey entities filed special appearances, arguing that Texas courts lacked personal jurisdiction over them because they were non-Texas entities headquartered in Louisiana and the accident occurred in federal waters outside Texas. The trial court denied the special appearances, and the defendants filed an interlocutory appeal.

**Issues:** (1) Does a forum-selection clause in a charter agreement provide an independent basis for Texas personal jurisdiction when the injured seaman was not a party to that contract? (2) Do Texas courts have personal jurisdiction over Odyssey Vessels and Odyssey Marine Holdings based on alleged Texas contacts or through imputing Odyssey Marine's contacts to them? (3) Could Texas courts exercise specific personal jurisdiction over Odyssey Marine based on its business contacts with Texas, including contracts with a Texas company and sales visits to Texas clients?

**Holding:** The Fourteenth Court of Appeals reversed and rendered, holding that Texas courts lacked personal jurisdiction over the Odyssey defendants. The forum-selection clause in the charter agreement could not support jurisdiction because the plaintiff did not assert or rely on it as an independent jurisdictional basis in the trial court. Odyssey Vessels and Odyssey Holdings had no relevant Texas contacts and the plaintiff failed to plead or prove a jurisdictional veil-piercing theory to impute Odyssey Marine's contacts to them. Odyssey Marine's contacts with Texas (contracts with a Texas company, occasional sales visits, and communications with Texas clients) were not substantially connected to the operative facts of the injury, which occurred in federal waters and involved alleged negligence aboard a vessel outside Texas. Accordingly, exercising jurisdiction would violate due process because there was no substantial connection between the defendants' Texas contacts and the plaintiff's maritime injury claims. The court sustained the defendants' special appearances and dismissed the claims against them.

[Tatum v. Noble](#), No. 14-25-00409-CV, [2026 WL 502165](#) (Tex. App. Feb. 24, 2026)

**Respondent who was properly served with notice of a protective-order hearing but failed to appear was not entitled to new notice when the hearing continued in a different district court after the original judge recused herself.**

**Facts:** Daphne Noble filed an application for a family-violence protective order against Wonisha Tatum in Harris County district court. The 280th District Court issued a temporary ex parte protective order and set a hearing for May 2, 2025. Tatum was personally served with the application, notice of the hearing, and related documents informing her that failure to appear could result in a default protective order. Tatum filed a judicial complaint against the presiding judge but did not move to recuse her. When the hearing was called, Tatum failed to appear. The presiding judge voluntarily recused herself to avoid the appearance of impropriety, and the case was transferred to the 245th District Court, where the hearing continued. After confirming that Tatum still had not appeared, the court heard testimony from Noble and granted a default protective order. Tatum later filed motions claiming improper service and lack of notice, but she offered no evidence supporting those claims. Her motion for new trial was overruled by operation of law, and she appealed.

**Issues:** (1) Did the trial court lack jurisdiction because certain administrative forms associated with the protective-order application were incomplete? (2) Was the protective order invalid because Tatum allegedly was not properly served? (3) Were Tatum's due-process rights violated because the hearing ultimately occurred in a different district court than the one listed in the

notice she received? (4) Was due process violated because the clerk allegedly failed to serve Tatum with a copy of the signed order?

**Holding:** The Fourteenth Court of Appeals affirmed the default protective order. The trial court had subject-matter jurisdiction because incomplete administrative forms were not required to invoke jurisdiction over a protective-order application. Personal jurisdiction existed because the uncontroverted return of service established that Tatum was properly served with the application and notice of the hearing. Due process was not violated when the hearing continued in another district court after the original judge recused herself; once Tatum failed to appear at the properly noticed hearing, the court was not required to serve her with a new notice for the continuation of that hearing. Claims regarding delayed notice of the order, denial of access to the courts, judicial bias, and fraud on the court were unsupported by the record or presented nothing for appellate review.

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## **-Res Judicata**

ELAINE T. MARSHALL, AS TRUSTEE OF THE MARSHALL GRANDCHILDREN'S TRUST, Appellant v. PRESTON MARSHALL, Appellee, No. 14-23-00276-CV, 2026 WL 585070 (Tex. App. Mar. 3, 2026)

***Probate court did not abuse its discretion in denying motion to dissolve the temporary injunction as res judicata issues cannot be decided in temporary hearings, but modified the injunction to dissolve provisions relating to trusts that have already terminated.***

**Facts:** This case arises from long-running litigation between Preston Marshall and his mother, Elaine Marshall, concerning multiple trusts created by J. Howard Marshall and E. Pierce Marshall. The trusts at issue were the (1) Testamentary Marital Income Trust (Marital Trust) created by Pierce Marshall for Elaine's benefit. Elaine served as trustee. Upon her death, remaining principal would pass equally to the Harrier and Osprey Trusts. (2) The Harrier and Falcon Trusts are irrevocable Louisiana trusts. Preston is beneficiary of the Harrier Trust. Elaine appointed five co-trustees in 2016 with a compensation formula that Preston challenged. (3) Lead Trust was a charitable lead annuity trust. It was terminated in 2023. (4) Grandchildren's Trust #2 was created for Preston. It terminated in 2023 when Preston turned fifty. The dispute began in 2017 when Preston obtained a temporary injunction in Harris County Probate Court preventing Elaine from: (1) transferring or modifying trust assets, (2) paying co-trustees, (3) appointing additional trustees, or (4) merging trusts (including the Wyoming "resitusing" transaction). The injunction was based on findings that Elaine likely breached fiduciary duties and that irreparable harm could occur due to the unique and illiquid Koch stock held in the trusts. Meanwhile, litigation continued in Louisiana, where courts: (1) approved the co-trustees' appointments, (2) found no breaches of fiduciary duty regarding administration of the Harrier and Falcon Trusts, and held Louisiana was the proper forum for administration of those trusts. After these Louisiana rulings, Elaine moved in 2025 to dissolve the 2017 temporary injunction, arguing the Louisiana judgments precluded the findings supporting the injunction, Preston lacked standing regarding the Marital Trust, and the injunction was moot as to the Lead Trust and Grandchildren's Trust #2. The probate court denied the motion. Elaine and the co-trustees appealed.

**Issues:** (1) Did the Louisiana judgments require dissolution of the temporary injunction under claim and issue preclusion principles? (2) Did Preston lack standing to pursue claims regarding the Marital Trust, making the injunction void? (3) Was the injunction moot as to the Lead Trust and Grandchildren’s Trust #2?

**Holding:** As to issue #1 the 14<sup>th</sup> Court of Appeals held that there was no abuse of discretion in denying dissolution. The court held that claim and issue preclusion are pleas in bar that go to the merits, and a temporary injunction proceeding cannot adjudicate the merits of the case. An interlocutory appeal from denial of a motion to dissolve does not permit the appellate court to resolve res judicata defenses. Those defenses must be resolved at trial. Therefore, the Louisiana judgments did not require dissolution at this stage. Regarding Preston’s standing as to the Marital Trust the court held Preston has constitutional standing. The court distinguished constitutional standing (jurisdictional), and statutory standing/capacity (non-jurisdictional). Because Preston adequately pleaded concrete injury, traceability to Elaine’s actions and redressibility the trial court had subject matter jurisdiction. The court also held that the injunction was moot as to The Lead Trust and Grandchildren’s Trust #2. Both trusts terminated in 2023. A terminated trust eliminates the live controversy supporting temporary injunctive relief. The court affirmed the trial court’s denial of the motion to dissolve as to the Marital, Harrier, and Falcon Trusts and modified the temporary injunction to remove provisions concerning the Lead Trust and Grandchildren’s Trust #2.

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## **-Restricted Appeals**

[BILLIE HART, ET AL, JEFFREY EARLY AND ELIZABETH EARLY, Appellants v. SAN JACINTO RIVER AUTHORITY, Appellees. Additional Party Names: Elizabeth Early, Jeffrey Early, No. 14-24-00786-CV, 2026 WL 473723 \(Tex. App. Feb. 19, 2026\)](#)

***An unverified motion to reinstate may be defective for some purposes (e.g., extending appellate deadlines), but it still counts as a post-judgment motion that precludes a restricted appeal, leaving the appellate court without jurisdiction.***

**Facts:** Hundreds of Kingwood-area property owners sued the San Jacinto River Authority (SJRA) alleging that SJRA’s release of stormwater from Lake Conroe during Hurricane Harvey (2017) caused or worsened flooding and constituted constitutional takings and related claims. The case, filed in 2019, involved substantial discovery and jurisdictional litigation but had not progressed to trial. The trial court scheduled a remote status conference and warned that failure to appear could result in dismissal for want of prosecution. Neither side appeared, and the trial court dismissed the case for want of prosecution on April 8, 2024. Three days later, the plaintiffs filed a timely but unverified motion to reinstate. Although the trial court indicated the motion was “granted — need order,” no written reinstatement order was ever signed. The plaintiffs later filed a restricted appeal from the dismissal order.

**Issues:** (1) Does a timely but unverified motion to reinstate qualify as a “post-judgment motion” that bars a restricted appeal under Texas Rule of Appellate Procedure 30? (2) If so, did appellants satisfy the jurisdictional requirements necessary to pursue a restricted appeal from the dismissal order?

**Holding:** The 14<sup>th</sup> Court of Appeals dismissed the appeal. A timely filed motion to reinstate—even if unverified—constitutes a post-judgment motion for purposes of Rule 30. Because a restricted appeal is available only when no timely post-judgment motion is filed, the appellants were jurisdictionally barred from pursuing a restricted appeal. Accordingly, the court dismissed the appeal for lack of jurisdiction.

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## **-Sealing of Records**

IN RE DOLCEFINO COMMUNICATIONS, LLC D/B/A DOLCEFINO MEDIA, Relator, No. 14-25-01040-CV, 2026 WL 199792 (Tex. App. Jan. 27, 2026)

**Facts:** This was the second mandamus proceeding brought by Dolcefino Media seeking public access to sealed court records in a long-pending divorce case. The trial court had entered an agreed sealing order in 2021. In 2025, Dolcefino Media intervened and moved to unseal the records. After the court of appeals previously held the trial court had jurisdiction to consider the motion, the trial court conducted a hearing and ordered that all signed orders be unsealed but refused to unseal other court records—including docket entries, hearing notices, transcripts of public hearings, and pleadings—without stating reasons or balancing interests.

**Issues:** (1) Did the trial court abuse its discretion by denying public access to presumptively public court records without balancing competing interests under the common law? (2) Did the trial court articulate reasons on the record for continued sealing of civil court records? (3) Did Dolcefino Media lack an adequate remedy by appeal, making mandamus appropriate?

**Holding:** Mandamus granted. The 14<sup>th</sup> Court of Appeals conditionally granted mandamus relief in part, holding that the trial court abused its discretion by denying access to docket entries, hearing notices, transcripts of public hearings, and pleadings without balancing the competing interests and without clearly articulating reasons for continued sealing. The court directed the trial court to vacate its order in part and to conduct the required balancing analysis, explaining its reasons if sealing continues. Ordinary appeal was not an adequate remedy.

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## **-Servicemembers Civil Relief Act (SCRA)**

TAUREAN JAMAL JOHNSON, Appellant v. AUGUSTINE IGNACIO LEZA, Appellee, No. 14-23-00888-CV, 2025 WL 3759500 (Tex. App. Dec. 30, 2025)

**Protections for servicemembers against default judgments do not apply if servicemember makes an appearance**

**Facts:** Leza obtained a default judgment in a county civil court awarding him possession of real property and past-due rent against Johnson. Johnson filed a restricted appeal, arguing that the trial court violated the Servicemembers Civil Relief Act (SCRA) by failing to appoint counsel for him, failing to require an indemnity bond from Leza, and by entering a default judgment at all, based on Johnson's asserted military status.

**Issues:** Does Section 3931 of the SCRA require the trial court to (1) appoint counsel for Johnson, (2) require Leza to post an indemnity bond, and (3) refrain from entering a default judgment, when the record showed Johnson made an appearance in the case?

**Holding:** No. Affirmed. The 14<sup>th</sup> Court of Appeals held that Section 3931 of the SCRA applies only when a defendant has not made an appearance, and because Johnson filed an answer, motions, and counterclaims constituting a general appearance, the statute did not apply; therefore, the trial court committed no error and the judgment was affirmed.

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## **-Standing**

ELIDA CASTILLO, MAYOR OF THE CITY OF TAFT; ESMERALDA CRUZ-MOLINA, MAYOR PRO TEM; MARIAH MORENO, ALDERWOMAN; AND ALONZO MOLINA, ALDERMAN, IN THEIR OFFICIAL CAPACITIES, Appellants, v. RYAN SMITH, IN HIS OFFICIAL CAPACITY AS CITY MANAGER, CITY OF TAFT, TEXAS, Appellee., No. 13-25-00682-CV, [2026 WL 842972](#) (Tex. App. Mar. 26, 2026)

**City manager lacked standing to sue city officials in official capacity without council authorization; ultra vires doctrine does not create standing—case dismissed for lack of jurisdiction.**

**Facts:** The City Manager of Taft, Ryan Smith, sued the mayor and certain city council members in their official capacities, alleging they acted ultra vires by holding an unofficial, unposted meeting in violation of the Texas Open Meetings Act and by issuing directives to city staff that undermined his authority as city manager. Smith sought declaratory and injunctive relief, claiming the officials unlawfully interfered with his statutory duties. The city officials filed a plea to the jurisdiction, arguing Smith lacked standing to sue in his official capacity and that governmental immunity barred the claims. The trial court denied the plea, and the officials filed this interlocutory appeal.

**Issues:** (1) Does a city manager have standing (or capacity) to sue other city officials in their official capacities on behalf of the city without authorization from the governing body? (2) Does the ultra vires doctrine allow a governmental official to bring suit in his official capacity without such authorization?

**Holding:** No on all issues. Reversed and dismissed. The 13<sup>th</sup> Court of Appeals held that a suit against officials in their official capacities is effectively a suit by the governmental entity;

therefore, Smith was attempting to sue on behalf of the City of Taft. Smith lacked authority to do so because the city council did not authorize the lawsuit, nor had it delegated such power to him. Government officials generally cannot “step into the shoes” of the governmental entity to initiate litigation without authorization. Ultra vires doctrine does not confer standing; it only provides an exception to immunity when a proper plaintiff brings suit. Because the jurisdictional defect could not be cured, dismissal was required.

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## **-Substituted Service**

[Shamrock Enters., LLC d/b/a FRSTeam Gulfcoast/LA, Petitioner, v. Top Notch Movers, LLC, Respondent](#), No. 24-0581, [2026 WL 119685](#) (Tex. Jan. 16, 2026)

***The record failed to affirmatively show that substituted service through the Secretary of State was forwarded to the defendant’s most recent address on file with the Secretary of State, and a Whitney certificate cannot supply that missing proof.***

**Facts:** After Hurricane Laura, Top Notch Movers (a Texas LLC) provided moving services in Alabama and Louisiana to Shamrock Enterprises (an Alabama LLC). Top Notch sued Shamrock in Texas for unpaid invoices exceeding \$170,000 and sought substituted service on the Texas Secretary of State under Texas Business Organizations Code § 5.251(1)(A), listing an Alabama address as Shamrock’s “principal office” and “last known mailing address.” The Secretary of State forwarded service to that address, but it was returned as undeliverable. Shamrock did not appear, and the trial court rendered a no-answer default judgment. Shamrock later brought a restricted appeal challenging service of process.

**Issues:** (1) Did the record affirmatively demonstrated strict compliance with § 5.251(1)(A), which requires the Secretary of State to forward process to the defendant’s most recent address on file with the Secretary of State? (2) Did a *Whitney* certificate conclusively establish proper substituted service despite the record’s failure to identify the statutory forwarding address?

**Holding:** No. The Texas Supreme Court held that the default judgment could not stand because the record did not affirmatively show that process was forwarded to Shamrock’s “most recent address on file with the Secretary of State” as required by statute; a *Whitney* certificate proves only that service was forwarded to the address provided—not that the address complied with the statute. The Court reversed the court of appeals, vacated the default judgment, and remanded the case.

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## **-Summary Judgment**

[CITY OF HOUSTON, Appellant v. SHENIQUA HENDERSON, Appellee](#), No. 14-25-00078-CV, [2026 WL 363514](#) (Tex. App. Feb. 10, 2026)

**Denial of the City's immunity-based summary judgment motion affirmed because plaintiff properly showed discovery was incomplete, and the City failed to challenge that independent basis for the trial court's ruling.**

**Facts:** Henderson sued the City of Houston for injuries she sustained in an automobile accident involving a City firefighter, Carlos Pascualli. The accident occurred while Pascualli was driving a City-owned vehicle to work when he changed lanes and collided with Henderson's vehicle. The City filed a hybrid traditional motion for summary judgment and plea to the jurisdiction, asserting governmental immunity under the Texas Tort Claims Act (TTCA). The City argued immunity applied because Pascualli was off duty, not on call, and commuting to work at the time of the accident, and therefore was not acting within the scope of his employment. In response, Henderson argued she needed additional discovery, including Pascualli's deposition and employment records, to challenge the City's claim. She filed a verified motion for continuance under Texas Rule of Civil Procedure 166a(g), asserting discovery was incomplete and necessary to respond to the summary judgment motion. The trial court denied the City's motion and allowed discovery to continue. The City filed an interlocutory appeal.

**Issues:** (1) Did the trial court err in denying the City's motion for summary judgment and plea to the jurisdiction based on governmental immunity, specifically whether the firefighter was acting within the scope of employment at the time of the accident? (2) Did the trial court properly deny summary judgment based on Henderson's verified request for additional discovery under Rule 166a(g)?

**Holding:** The 14<sup>th</sup> Court of Appeals affirmed the trial court's denial of the City's motion. The court held that Henderson properly filed a verified motion for continuance under Rule 166a(g), demonstrating that she needed additional discovery to oppose the City's motion for summary judgment. The trial court had discretion to deny summary judgment and allow additional discovery when the nonmovant shows discovery is incomplete and material facts are unavailable. The City failed to challenge the trial court's ruling on the independent ground that summary judgment was premature due to incomplete discovery. Because the City did not attack all grounds supporting the trial court's ruling, the appellate court was required to affirm the order without reaching the merits of whether the firefighter was acting within the scope of employment. Affirmed.

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## **-Supersedeas Bond**

[Phipps v. Largo](#), No. 01-25-00307-CV, [2026 WL 388215](#) (Tex. App. Feb. 12, 2026)

**Arbitration fees are not "costs" therefore do not have to be superseded to suspend enforcement of judgment**

**Facts:** Cord Largo initiated contractual arbitration against attorney Martin Phipps and his law firm, alleging breach of a written agreement. The arbitrator awarded Largo \$8,837.52 in compensatory damages, \$85,569 in arbitration fees, \$590,697.50 in attorney's fees, and interest. Largo then obtained a district court judgment confirming the arbitration award totaling

\$687,385.19. To suspend enforcement of the judgment pending appeal, Phipps deposited \$9,500.33 with the trial court clerk, representing the compensatory damages and estimated interest. Largo argued that arbitration fees qualified as “costs awarded in the judgment” and sought to increase the supersedeas security to include those fees. The trial court agreed, increased the security amount, and ordered post-judgment discovery when Phipps did not post additional security. Phipps appealed and moved to decrease the required security.

**Issues:** (1) Do arbitration fees awarded in a judgment confirming an arbitration award qualify as “costs awarded in the judgment” that must be superseded under Texas Rule of Appellate Procedure 24.2(a)(1). (2) Did the trial court abuse its discretion by requiring Phipps to post supersedeas security including arbitration fees? (3) Did the trial court err by ordering post-judgment discovery after Phipps deposited sufficient security to supersede the judgment?

**Holding:** The 1<sup>st</sup> Court of Appeals held that arbitration fees are not “costs awarded in the judgment” that must be superseded to suspend enforcement of a judgment pending appeal. The trial court abused its discretion by requiring security covering arbitration fees and by ordering post-judgment discovery after Phipps had posted sufficient supersedeas security. The court granted Phipps’s motion to decrease security and vacated the discovery order.

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## **-Texas Citizens Participation Act (TCPA)**

JONATHAN WHEELER AND BROOKE WHEELER, APPELLANTS v. J. M. MARTIN CUSTOM HOMES, INC. AND JUSTIN MARTIN, INDIVIDUALLY AND D/B/A J. M. MARTIN CUSTOM HOMES, APPELLEES, No. 07-24-00316-CV, 2025 WL 3557955 (Tex. App. Dec. 11, 2025)

***Homeowners’ alleged statements about their builder’s payment practices were protected consumer communications under the TCPA – business disparagement claims dismissed***

**Facts:** The Wheelers contracted with J.M. Martin Custom Homes, Inc. and Justin Martin to build a custom home. During construction, the Wheelers began paying subcontractors directly after learning they had not been paid, deducting those payments from amounts owed to Martin. Martin filed a mechanic’s lien for the alleged unpaid balance. The Wheelers sued to remove the lien, alleging Martin failed to timely pay subcontractors, resulting in lien notices. Martin denied the allegations and counterclaimed for business disparagement, alleging the Wheelers made false statements to vendors, subcontractors, and others that Martin did not pay his bills or finish jobs. The Wheelers moved to dismiss the counterclaim under the Texas Citizens Participation Act (TCPA). The trial court denied the motion.

**Issues:** Did the Wheelers’ alleged statements constitute protected acts under TCPA § 27.010(b)(2) (consumer opinions, commentary, or reviews of a business)?

**Holding:** Yes. The 7<sup>th</sup> Court of Appeals held that the Wheelers’ alleged statements were protected communications of consumer opinions and commentary under TCPA § 27.010(b)(2), making the TCPA applicable regardless of whether the statements involved matters of public

concern. Because Martin produced no evidence to establish a prima facie case of business disparagement as required by TCPA § 27.005(c), dismissal was mandatory. The court reversed the trial court's order denying the TCPA motion, rendered judgment that Martin take nothing on his business disparagement counterclaim, and remanded for determination of attorney's fees and costs under TCPA § 27.009.

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[ROBERT STEINHAGEN, Appellant/Cross-Appellee v. MC TRILOGY TEXAS, LLC, Appellee/Cross-Appellant](#), No. 05-24-00325-CV, [2025 WL 3758909](#) (Tex. App. Dec. 29, 2025)

***Denial of TCPA motion reversed- judgment rendered dismissing all claims with prejudice.***

**Facts:** MC Trilogy Texas, LLC, a real-estate developer, sued pro se defendant Robert Steinhagen for defamation and business disparagement based on statements Steinhagen made on his YouTube channel accusing developers and city officials of corruption, destruction of public records, and threatening conduct related to a residential development; Steinhagen moved to dismiss under the Texas Citizens Participation Act (TCPA), but the trial court did not rule and the motion was denied by operation of law.

**Issues:** Did Steinhagen meet his burden under the TCPA to show the claims were based on his exercise of free speech on matters of public concern, and if so, did MC Trilogy establish by clear and specific evidence a prima facie case for defamation and business disparagement?

**Holding:** Reversed. The 5<sup>th</sup> Court of Appeals held that Steinhagen's statements involved matters of public concern, that claims based on the 2021 broadcast were time-barred because the discovery rule did not apply to publicly accessible YouTube statements, and that the 2023 statements were nonactionable opinions or not shown to refer to MC Trilogy; accordingly, the court reversed the denial of the TCPA motion, rendered judgment dismissing all defamation and business-disparagement claims with prejudice, and remanded for further proceedings, while dismissing MC Trilogy's cross-appeal.

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[Trivista Oil Co. LLC & Trivista Operating LLC, Appellants v. Fort Apache Energy, Inc., Appellee](#), No. 03-24-00682-CV, [2025 WL 3560683](#) (Tex. App. Dec. 12, 2025)

***TCPA applied – protected free speech means dismissal of claims with prejudice***

**Facts:** Trivista Oil Company and Trivista Operating operated approximately 250 oil and gas wells in Bastrop and Lee Counties under existing mineral leases with numerous landowners. Fort Apache Energy (FAE) began communicating with some of those landowners about the condition of the wells and entered into top leases—future-interest leases expressly subject to Trivista's existing leases. After one landowner briefly denied Trivista access to a leased property, Trivista sued FAE for tortious interference with contract, declaratory judgment, and later trespass to try title, seeking injunctive relief. FAE moved to dismiss all claims under the Texas Citizens Participation Act (TCPA), asserting its communications were protected free speech. The trial court granted FAE's TCPA motion, dismissed all claims with prejudice, and awarded limited attorney's fees, costs, and sanctions.

**Issues:** (1) Were Trivista’s claims based on or in response to FAE’s exercise of the right of free speech under the TCPA? (2) Did FAE’s communications with mineral owners regarding well conditions and leasing constitute matters of public concern? (3) Does the TCPA’s commercial-speech exemption barred dismissal? (4) Could the appellate court address FAE’s cross-issue seeking additional attorney’s fees and costs?

**Holding:** The Third Court of Appeals affirmed the dismissal, holding that Trivista’s claims were based on FAE’s protected communications concerning matters of public concern, including well safety, environmental risks, and regulatory compliance; that the commercial-speech exemption did not apply; and that the court lacked jurisdiction to grant FAE additional attorney’s fees beyond those awarded by the trial court. Affirmed.

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## **-Texas Uniform Trade Secrets Act (TUTSA)**

LANCE CHRISTOPHER KASSAB AND LANCE CHRISTOPHER KASSAB, P.C. D/B/A THE KASSAB LAW FIRM, Appellants v. MICHAEL A. POHL AND THE LAW OFFICE OF MICHAEL A. POHL, PLLC, Appellees, No. 01-24-00220-CV, 2026 WL 872702 (Tex. App. Mar. 31, 2026)

**Client lists and fee contracts can constitute trade secrets under TUTSA, but damages are limited—no recovery for litigation-related attorney’s fees, no exemplary damages without unanimity, and no joint-and-several liability via conspiracy.**

**Facts:** Michael Pohl, a Texas attorney, developed a large database of approximately 11,000 mass-tort clients through significant marketing efforts and maintained client files, fee contracts, and contact information under strict confidentiality. After Pohl closed his Mississippi office, a marketing firm retained possession of his client materials and later provided them to Lance Kassab, another Texas attorney. Kassab used the materials to contact Pohl’s former clients and pursue civil barratry claims and grievances against Pohl. Pohl ultimately prevailed against most of those claims and then sued Kassab under the Texas Uniform Trade Secrets Act (TUTSA), alleging misappropriation of his client lists and fee contracts. The jury found in favor of Pohl, and the trial court entered judgment consistent with the verdict awarding Pohl \$1,453,040.00 in damages, \$3 million in exemplary damages, and attorney’s fees.

**Issues:** (1) Was there legally sufficient evidence that Pohl’s client materials constituted trade secrets and were misappropriated under TUTSA? (2) Did Kassab’s defenses—limitations, attorney immunity, judicial-proceedings privilege, and public policy—bar liability? (3) Were the damages awarded—including attorney’s fees as damages, exemplary damages, and joint-and-several liability—legally permissible?

**Holding:** The 1<sup>st</sup> Court of Appeals affirmed liability but reversed in part on damages and remanded. The court held that Pohl’s client lists and fee contracts qualified as trade secrets, and legally sufficient evidence showed that Kassab misappropriated them by acquiring and using the materials with knowledge they were improperly obtained. Limitations did not bar the claim

because Kassab's acquisition occurred within the statutory period; attorney immunity and related privileges did not apply to the act of acquiring the trade secrets. The exemplary damages award failed because the record did not establish a unanimous jury finding on the predicate malice question required by statute. Fees incurred in defending barratry suits and grievances are not recoverable as actual damages under TUTSA. Evidence supported awards for reasonable value of the trade secrets and development costs avoided. Civil conspiracy is preempted by TUTSA, so Kassab was liable only for his proportionate responsibility. The court affirmed the judgment of the trial court as to the liability finding against Kassab, reversed in part as to damages, and remanded the case to the trial court for entry of judgment in light of this opinion and taking into consideration settlement credits due Kassab.

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## **-Third Parties**

[IN RE UNIVERSAL PRESSURE PUMPING, INC., Relator](#), No. 14-25-00829-CV, [2026 WL 395243](#) (Tex. App. Feb. 12, 2026)

***Trial court abused its discretion by denying defendant's motion to designate responsible 3<sup>rd</sup> parties***

**Facts:** Hydrochloric acid leaked from a chemical storage tank at an oil and gas wellsite in Karnes County, Texas, allegedly causing respiratory and other injuries to several workers. The plaintiffs filed suit against Universal Pressure Pumping, Inc. and other defendants sixteen days before the statute of limitations expired but did not serve Universal until thirty-six days after limitations expired. During discovery, Universal identified two potential responsible third parties: Clean Blast Services, Inc., which had performed interior tank lining work, and GR Energy Services, the plaintiffs' employer, which allegedly failed to provide safety equipment and training. Universal filed a motion for leave to designate these entities as responsible third parties more than sixty days before trial, but the trial court denied the motion without allowing Universal to replead. Universal sought mandamus relief.

**Issues:** (1) Did the trial court abuse its discretion by denying Universal's motion for leave to designate responsible third parties? (2) Was Universal's motion timely despite being filed after limitations expired? (3) Did Universal's motion allege sufficient facts to satisfy the pleading standard? Did Universal have an adequate remedy by appeal for the trial court's denial?

**Holding:** Mandamus conditionally granted. The 14<sup>th</sup> Court of Appeals conditionally granted mandamus relief, holding that the trial court abused its discretion by denying Universal's timely and sufficiently pleaded motion to designate responsible third parties and that Universal lacked an adequate remedy by appeal.

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## **-Turnover Order**

JAJWK, LLC AND JAJWK, LP, Appellants v. PRIMEWAY FEDERAL CREDIT UNION, Appellee, No. 01-23-00657-CV, 2026 WL 692235 (Tex. App. Mar. 12, 2026)

**Turnover orders void as to non-party because they improperly adjudicated the rights of the non-party – cannot be used to determine substantive ownership disputes**

**Facts:** Primeway Federal Credit Union obtained an \$84,000 judgment against a car dealership (Emperial Motor Sales, LLC) and its owner. After the judgment, Primeway initiated a post-judgment turnover proceeding under the Texas turnover statute to collect the judgment. The trial court appointed a receiver to locate and sell nonexempt assets belonging to the judgment debtor. The receiver reported that the dealership had title to several luxury vehicles that were in the possession of JAJWK, LLC and JAJWK, LP, entities that claimed liens on the vehicles. The receiver asked the court to declare JAJWK's liens invalid and to order the vehicles turned over for sale. JAJWK objected, arguing that it was not a party to the underlying lawsuit and that the validity of its liens could not be decided in a turnover proceeding. Despite the objection, the trial court declared JAJWK's liens void, ordered JAJWK to turn over the vehicles to the receiver, and authorized the receiver to sell the vehicles to satisfy the judgment. After one vehicle (a Rolls-Royce) was sold and the proceeds distributed, JAJWK appealed the turnover orders.

**Issues:** (1) Was JAJWK's appeal of the turnover order timely and was the appeal moot after one vehicle was sold? (2) May a trial court use a post-judgment turnover proceeding to adjudicate and invalidate the property rights of a non-party to the underlying judgment?

**Holding:** The 1<sup>st</sup> Court of Appeals held that JAJWK's objection to the receiver's report functioned as a motion to modify, extending the appellate deadline from 30 days to 90 days, making the appeal timely. The case was not moot, even though one vehicle had been sold, because the turnover order also voided JAJWK's liens on other vehicles and continued to affect its rights. The court emphasized that the Texas turnover statute (Tex. Civ. Prac. & Rem. Code § 31.002) is merely a procedural tool to help collect judgments and cannot be used to decide substantive ownership disputes. Because JAJWK was not a party to the underlying judgment, and claimed independent security interests in the vehicles, the trial court could not invalidate those liens in a turnover proceeding without affording the due process of a separate lawsuit. Any dispute over the validity of JAJWK's liens must be resolved in a separate proceeding where the third party is properly joined and afforded due process. The court reversed the trial court's turnover orders, and rendered judgment vacating those orders, holding them void as to JAJWK because they improperly adjudicated the rights of a non-party.

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## **-Vexatious Litigants**

MARK CARROLL AND CHARLOTTE CARROLL, Appellants v. EMERALD RESIDENTIAL PROPERTY MANAGEMENT, Appellee, No. 11-24-00131-CV, 2025 WL 3672302 (Tex. App. Dec. 18, 2025)

**Trial court properly declared plaintiffs vexatious litigants and properly dismissed claims**

**Facts:** Mark and Charlotte Carroll, proceeding pro se, sued Emerald Residential Property Management alleging wrongful eviction, retaliation, civil conspiracy, failure to return a security deposit, and intentional infliction of emotional distress arising from their eviction from a residential property in Euless, Texas. The Carrolls’ own pleadings and attached documents showed that Emerald was not their landlord but merely the property manager acting on behalf of the actual landlord, who obtained the eviction judgment. Emerald moved to dismiss the claims under Texas Rule of Civil Procedure 91a and separately sought to have the Carrolls declared vexatious litigants based on prior adverse litigation, including a prior suit by the Carrolls against Emerald involving the same eviction. The trial court dismissed all claims, denied the Carrolls’ motion to recuse the trial judge, declared the Carrolls vexatious litigants, and awarded attorney’s fees.

**Issues:** (1) Did the trial court abuse its discretion in denying the Carrolls’ motion to recuse the trial judge? (2) Did the trial court improperly dismiss the Carrolls’ claims under Rule 91a? (3) Did the trial court abuse its discretion in declaring the Carrolls vexatious litigants?

**Holding:** No on all issues. The Eleventh Court of Appeals affirmed, holding that (1) denial of the recusal motion was proper because it was unverified and based solely on prior adverse rulings; (2) dismissal under Rule 91a was proper because the Carrolls’ pleadings affirmatively negated essential elements of their claims—particularly the existence of a landlord-tenant relationship—and failed to state legally cognizable claims; and (3) the trial court did not abuse its discretion in declaring the Carrolls vexatious litigants given their lack of a reasonable probability of success and repeated attempts to relitigate claims previously resolved against them. Affirmed.

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## **-Waiver of Appellate Rights**

[1 Coventry Ct., LLC v. Downs of Hillcrest Residential Ass'n, Inc.](#), No. 24-1047, [2026 WL 70832](#) (Tex. Jan. 9, 2026)

**Court of appeals may not dismiss an appeal based on a purported settlement waiver when the appellant contests the validity of the settlement; the appellate court must first determine whether a valid, enforceable agreement exists.**

**Facts:** Coventry Court, LLC and a homeowners’ association disputed issues related to a fence. On the day trial was set to begin, the parties signed a short, partially handwritten document referencing execution of a future “full and final settlement agreement.” When later negotiations over a formal agreement broke down, the trial court nevertheless entered judgment ordering the parties to execute a final settlement, held Coventry in contempt for refusing to sign the HOA’s proposed version, and effectively compelled Coventry to sign under threat of sanctions. The court of appeals dismissed Coventry’s appeal, holding that Coventry waived appellate rights by signing the settlement agreement

**Issue:** Did Coventry waive its appellate rights by signing a settlement agreement, which the party claims is invalid?

**Holding:** No. The Texas Supreme Court held that the court of appeals erred by dismissing the appeal without first determining whether a valid, enforceable settlement agreement existed that waived Coventry's appellate rights; when the validity of a purported waiver is challenged, the appellate court must examine the issue rather than accept the waiver at face value. The dismissal was reversed and the case remanded for consideration of the appeal's merits.

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# CONSTITUTIONAL LAW

## -Due Course of Law

CITY OF DICKINSON, TEXAS AND SEAN SKIPWORTH, IN HIS OFFICIAL CAPACITY AS MAYOR OF DICKINSON, TEXAS, Appellants v. CRYSTAL CRUISE INVESTMENTS, LLC D/B/A NAUTICAL NAVY AND HARRISON YAT, INDIVIDUALLY AND AS MANAGING MEMBER OF CRYSTAL CRUISE INVESTMENTS, LLC, Appellees, No. 01-24-00684-CV, [2026 WL 530391](#) (Tex. App. Feb. 26, 2026)

**Facts:** In 2016, the City of Dickinson enacted a zoning ordinance regulating short-term vacation rentals, requiring a specific use permit (SUP) to operate a vacation rental in residential districts. In 2022, Crystal Cruise Investments purchased a large home (8 bedrooms, advertised for up to 30 guests) on a residential cul-de-sac in Dickinson and began operating it as a short-term rental without obtaining the required SUP. Neighborhood residents complained about noise and parties, on-street and double parking, increased traffic, public urination and safety concerns for children. The City notified Crystal Cruise that it was violating the ordinance. Instead of completing the permit process, Crystal Cruise sued the City and its mayor, alleging the ordinance violated the Texas Constitution's due course of law provision, equal protection rights and asserting an ultra vires claim against the mayor. The City counterclaimed under Local Government Code Chapter 211 and Chapter 54, seeking injunctive relief and civil penalties. The trial court ruled for Crystal Cruise, declared the ordinance unconstitutional, and enjoined its enforcement. The City appealed.

**Issues:** (1) Does Dickinson's vacation rental ordinance violate the right to due course of law under the Texas Constitution? (2) Does the ordinance violate equal protection by treating short-term rentals differently from long-term rentals? (3) Did the mayor act ultra vires in enforcing the ordinance? (4) Is the City entitled to relief on its counterclaim for ordinance violations?

**Holding:** As to the first issue the 1<sup>st</sup> Court of Appeals held Crystal Cruise had no vested right to operate a short-term rental without complying with the ordinance (which predated its purchase). Even if a protected interest existed, the ordinance was rationally related to legitimate goals.

Testimony regarding noise, traffic, and parking supported the City's concerns. Thus, the ordinance did not violate due course of law. Regarding the equal protection claim the court held that the Legislature itself distinguishes between rentals of 30 days or less and longer-term rentals (e.g., occupancy tax statutes). Regulating short-term rentals differently from long-term rentals is rational. Crystal Cruise failed to show it was similarly situated to any other successful SUP applicant. Therefore, no equal protection violation occurred. Because the ordinance was constitutional the City had authority under the Zoning Enabling Act to regulate land use. The mayor's enforcement of the ordinance was not outside his authority. The ultra vires claim therefore failed. Because the appellate court upheld the ordinance the denial of the counterclaim could not stand. Proof of ordinance violation can support injunctive relief and civil penalties under Chapter 211. The court remanded the counterclaim for further proceedings.

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## **-Standing**

[Texas Right to Life v. Van Stean](#), No. 03-21-00650-CV, [2026 WL 118486](#) (Tex. App. Jan. 16, 2026)

***Abortion providers and advocacy groups had standing to bring a pre-enforcement constitutional challenge to SB 8; TCPA did not apply because the suit challenged enforcement of an allegedly unconstitutional statute rather than protected speech.***

**Facts:** After the Texas Legislature enacted Senate Bill 8 (the Texas Heartbeat Act), which bans abortions after detection of fetal cardiac activity and delegates enforcement exclusively to private citizens through civil lawsuits, multiple abortion providers, advocacy organizations, and individuals filed suit challenging the statute's constitutionality. The plaintiffs sought declaratory and injunctive relief against Texas Right to Life and its legislative director, alleging that Texas Right to Life was actively encouraging and organizing private enforcement actions under SB 8, thereby chilling constitutionally protected conduct. The cases were consolidated into a multidistrict litigation proceeding. Texas Right to Life filed a plea to the jurisdiction and a motion to dismiss under the Texas Citizens Participation Act (TCPA), arguing the plaintiffs lacked standing and that the suit impermissibly targeted protected speech and petitioning activity. The trial court denied the plea and the TCPA motion, and the case returned to the court of appeals on remand from the Texas Supreme Court to determine standing and TCPA applicability.

**Issues:** (1) Do the plaintiffs have standing to bring a pre-enforcement constitutional challenge against private parties authorized to enforce SB 8? (2) Were the plaintiffs' claims ripe and justiciable or instead dependent on speculative future enforcement? (3) Could Texas Right to Life's conduct be fairly traced as the cause of the plaintiffs' alleged injuries? (4) Would the plaintiffs' requested declaratory and injunctive relief redress their injuries? (5) Does the Texas Citizens Participation Act apply to the plaintiffs' claims, requiring dismissal?

**Holding:** The 3<sup>rd</sup> Court of Appeals held that the plaintiffs had standing because they alleged a concrete and imminent injury stemming from the credible threat of private enforcement actions

actively promoted by Texas Right to Life, that the injury was traceable to Texas Right to Life's conduct, and that declaratory and injunctive relief would redress the injury. The court further held that the claims were ripe and not moot, despite later developments in abortion law. Finally, the court held that the TCPA did not apply because the plaintiffs' suit challenged the constitutionality of SB 8 and sought to enjoin enforcement of an allegedly unconstitutional statute, not to restrict protected speech or petitioning activity. The trial court's denial of the TCPA motion to dismiss was affirmed.

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# CONTRACT LAW

## -Appraisers

[Kevin Burke, Jeffrey Schwartz Burke, Tracy Ruth Burke, Lucky Burke, Cindy Bernat, Pam Burke Daily, Barbara Burke Harberg, Lori Ilene Quinta Valle, Fonda Glazer, & Kim Brown, Petitioners, v. Houston PT BAC Off. Ltd. P'ship \(Bank of Am.\), Respondent, No. 24-0135, 2025 WL 3683861 \(Tex. Dec. 19, 2025\)](#)

***Undisclosed substantive communications between a party and a prospective neutral appraiser must be disclosed. Appraisal reward reversed and case remanded.***

**Facts:** The parties' predecessors entered a long-term lease for downtown Houston property containing the Bank of America Building, with periodic rent adjustments based on the fair market value of the land. When the parties could not agree on value, the lease required an appraisal process in which each side selected an appraiser and, if they disagreed, a third "neutral" appraiser would be chosen. During a rent-adjustment dispute, Bank of America (BAC) interviewed Scott Rando about serving as its party appraiser, discussed substantive valuation-related topics, and declined to hire him—while telling him he would be "at the top of our list" to serve as the neutral appraiser if one were needed. When the party appraisers failed to agree, Rando was selected as the neutral appraiser without disclosure of BAC's prior communications with him. The neutral appraiser joined BAC's appraiser in setting the valuation, which the landlords challenged as biased due to the undisclosed communications. The trial court enforced the award, and the court of appeals affirmed, holding that the communications between BAC and Rando were nonsubstantive.

**Issues:** Must certain communications between a party and a potential party appraiser be disclosed if the potential appraiser later becomes the designated neutral appraiser?

**Holding:** Yes. The Texas Supreme Court reversed, applying arbitration principles at the parties' behest. The Court held that communications between a party and the neutral appraiser about the

matter submitted to appraisal must be disclosed if they go beyond the appraiser's availability and experience. Remanded to the trial court.

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## **-Arbitration**

[MH CONSULTANTS, INC., Appellant v. Lisa MARTINEZ & Narciso Martinez, Appellees](#), No. 04-25-00230-CV, [2025 WL 3713674](#) (Tex. App. Dec. 23, 2025)

### ***Defendant waived arbitration after substantially invoking judicial process***

**Facts:** Lisa and Narciso Martinez purchased a manufactured home from MH Consultants, Inc. in January 2021 and signed a separate arbitration agreement covering all claims arising from the sale. After delivery, the home allegedly arrived damaged and was not properly repaired. The Martinezes sued MH Consultants in district court for breach of contract, DTPA violations, and negligence. For nearly three years, MH Consultants actively litigated the case—conducting extensive discovery, seeking sanctions, participating in mediation, filing a summary-judgment motion, requesting multiple continuances on the eve of trial, and preparing for trial. Only after this prolonged litigation did MH Consultants move to compel arbitration. The trial court denied the motion.

**Issues:** (1) Did MH Consultants waive its contractual right to compel arbitration by substantially invoking the judicial process? (2) Were the Martinezes prejudiced by MH Consultants' litigation conduct, as required under Texas waiver jurisprudence?

**Holding:** Yes, on both issues. The Fourth Court of Appeals affirmed the denial of arbitration, holding that MH Consultants substantially invoked the judicial process by actively litigating the case for nearly three years and that the Martinezes were prejudiced by the delay, expense, and trial preparation caused by that conduct; therefore, MH Consultants waived its right to compel arbitration.

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## **-Attorneys Fees**

[PESCA HOLDING LLC, Appellant v. Bengt SKOLDEBERG & Gudrun Skoldeberg, Appellees](#), No. 04-24-00642-CV, [2026 WL 758738](#) (Tex. App. Mar. 18, 2026)

### ***Failure to submit attorney's fees to the first jury waives recovery, and a second jury trial cannot cure the waiver absent a valid Rule 11 agreement.***

**Facts:** Pesca purchased a window-covering business and related assets (TSS and VASA) from the Skoldebergs. Before the purchase, financial disclosures showed approximately \$344,000 labeled as "customer deposits." Pesca alleged this represented deposits on existing customer orders (implying a backlog of ~\$688,000 in sales). After closing, Pesca discovered the amounts largely reflected cash advances between related companies for future orders, not existing customer deposits. Pesca sued for common-law and statutory fraud. After a jury trial, the jury

found no fraud. After the jury was dismissed, the Skoldebergs sought attorney's fees under the contract. The trial court conducted a second jury trial on attorney's fees, which resulted in a substantial fee award to the Skoldebergs.

**Issues:** (1) Was the evidence legally and factually sufficient to support the jury's finding of no fraud? (2) Did the Skoldebergs waived their claim for attorney's fees by failing to submit the issue to the first jury? (3) Did the trial court err by conducting a second jury trial on attorney's fees without a valid agreement (Rule 11) to bifurcate the issue?

**Holding:** The 4<sup>th</sup> Court of Appeals held that the evidence was sufficient to support the jury's finding of no fraud. Evidence showed Pesca had access to extensive due diligence materials indicating the deposits were cash advances for future orders. Experts testified the accounting treatment was standard, not deceptive. The jury could reasonably find no material misrepresentation or no justifiable reliance, especially given Pesca's failure to fully review available information. As to attorney's fees, they are a fact issue for the jury unless properly separated. A party waives fees by failing to present evidence and request a jury question before the jury is discharged. There was no written or clearly recorded Rule 11 agreement to try fees separately. Ambiguous statements and the trial court's recollection were insufficient. Once waived, the court could not revive the issue through a second jury trial. The Skoldebergs waived their claim for attorney's fees by failing to submit the issue to the first jury and failing to prove a valid agreement to try fees separately. The trial court erred in holding a second jury trial on attorney's fees. Judgment affirmed in part (no fraud), reversed and rendered in part (attorney's fees denied).

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## **-Comparative Indemnity**

[INDUSTRIAL SPECIALISTS, LLC, Appellant v. BLANCHARD REFINING COMPANY LLC AND MARATHON PETROLEUM COMPANY LP, Appellees, No. 01-23-00704-CV, 2025 WL 3712203 \(Tex. App. Dec. 23, 2025\)](#)

***An indemnity clause that does not expressly provide for comparative indemnity fails the express negligence doctrine and is unenforceable.***

**Facts:** Blanchard Refining Company LLC owned and operated a refinery in Texas City and contracted with Industrial Specialists, LLC ("Industrial") under a five-year Major Service Contract to perform turnaround services at the refinery. The contract included an indemnity provision requiring Industrial to indemnify Blanchard and its affiliates, including Marathon Petroleum Company LP ("Marathon"), for losses arising from bodily injury connected with the work, except to the extent the loss was attributable to Marathon's negligence. During the contract term, a fire occurred at the refinery, injuring multiple contractor employees and causing one death. Injured workers sued Marathon and other contractors for negligence; Industrial was not sued due to workers' compensation immunity but was designated a responsible third party.

Marathon demanded defense and indemnity from Industrial, which Industrial refused. Marathon and the other defendants settled all personal-injury claims for \$104 million, with Marathon paying \$86 million. Marathon then sued Industrial for breach of contract, seeking to recover the portion of the settlement attributable to the negligence of Industrial and other contractors under a comparative indemnity theory. After a jury trial allocating fault among the parties, the trial court awarded Marathon over \$46 million in damages based on comparative fault calculations.

**Issues:** (1) Does the express negligence doctrine apply when an indemnitee seeks comparative indemnity for settlement payments arising from concurrent negligence? (2) Does the indemnity provision in the parties' contract expressly provide for comparative indemnity as required by the express negligence doctrine?

**Holding:** Yes and no. The First Court of Appeals held that the express negligence doctrine applies when an indemnitee seeks comparative indemnity for losses caused by concurrent negligence. However, because the indemnity provision in this case did not expressly and specifically provide for comparative indemnity, it failed to satisfy the express negligence doctrine and was unenforceable as a matter of law. The court reversed the trial court's judgment and rendered judgment that Marathon take nothing from Industrial.

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## **-Consideration**

[RANGER STEEL SERVICES, LP, Appellant v. JEFFREY J. MCPHERSON, Appellee](#), No. 14-24-00374-CV, [2026 WL 844388](#) (Tex. App. Mar. 26, 2026)

***An employer's promise of profit-sharing can form an enforceable unilateral contract when the employee accepts by continued performance, even if consideration is implied rather than expressly stated.***

**Facts:** Jeffrey McPherson, longtime employee and president of Ranger Steel, claimed that the company agreed to pay him 60% of its net profits following the death of its owner, Ron Whitley. Shortly before undergoing high-risk surgery, Whitley executed a notarized "Written Consent" outlining post-death company operations, including the 60% profit allocation to McPherson. Whitley personally showed the document to McPherson, who agreed to follow it. After Whitley died, McPherson continued running the company and was initially paid pursuant to the agreement. However, the new management later revoked the arrangement, refused further payments, and terminated McPherson. McPherson sued for breach of contract. A jury found that an agreement existed, that Ranger Steel breached it, and awarded \$4.1 million in damages.

**Issues:** Did legally sufficient evidence support the existence of a valid, enforceable contract between McPherson and Ranger Steel? (2) Specifically, was there sufficient evidence of consideration (i.e., a bargained-for exchange) to support contract formation, or was the promise merely a gratuitous gift?

**Holding:** Yes on both issues. The 14<sup>th</sup> Court of Appeals held that legally sufficient evidence supported the jury's finding of a valid contract. The evidence permitted a reasonable conclusion that Whitley's promise constituted an offer for a unilateral contract, which McPherson accepted by continuing to work and run the company after Whitley's death. McPherson's continued performance supplied the necessary consideration, even though not expressly stated in the written document. Accordingly, the court affirmed the \$4.1 million judgment for breach of contract.

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## **-Contractual Indemnity**

[S&B Eng'rs & Constructors, Ltd. v. Scallon Controls, Inc.](#), No. 24-0525, [2026 WL 705762](#) (Tex. Mar. 13, 2026)

**Contractual indemnity rights survive settlement if the contract allocates liability proportionally and the settling party proves the settlement was reasonable and attributable in part to the indemnitor's negligence.**

**Facts:** Sunoco hired S&B Engineers & Constructors to design and install a safety system at a South Texas refinery. S&B subcontracted with Scallon Controls, Inc. to supply and program a fire-suppression system. Scallon programmed the system so that if power was lost, a failsafe mode would release a chemical fire suppressant. In January 2015, the system temporarily lost power while other contractors' employees were working on scaffolding at the refinery. The suppressant discharged, causing workers to panic and fall from the scaffolding. Seven workers were injured. The injured workers sued Sunoco and S&B for negligence. Sunoco and S&B filed third-party claims against Scallon alleging that the accident resulted from Scallon's negligence and invoking a contractual indemnification provision in their contract with Scallon. After several years of litigation, Sunoco and S&B settled with the injured workers for approximately \$4.75 million. The settlement did not include Scallon. After the settlement, S&B and Zurich (Sunoco's insurer) sought proportional indemnification from Scallon under the contract. The trial court granted summary judgment for Scallon, and the court of appeals affirmed, holding that the settlement extinguished any indemnity claim.

Issues: (1) May a defendant who settles a tort claim later pursue contractual proportional indemnification from a non-settling subcontractor? (2) Was Zurich's indemnity claim time-barred because it intervened years after the accident?

**Holding:** The Texas Supreme Court reversed the court of appeals and remanded the case, holding that a settlement does not extinguish contractual indemnification rights, and the parties may pursue proportional contractual indemnity after settlement, provided they prove the settlement was reasonable and attributable in part to the indemnitor's negligence. The court explained that *Beech Aircraft v. Jinkins* addressed statutory and common-law contribution, not contractual indemnity. Contribution involves shifting liability between tortfeasors by operation of law. In contrast, contractual indemnity arises from an agreement between the parties allocating risk. Because the parties in this case freely negotiated a contractual indemnification clause, *Jinkins* does not prevent them from enforcing it after settlement. The court also held that Zurich's claim was timely because limitations began when the settlement fixed liability, not when the accident occurred. Under *Ethyl Corp. v. Daniel Construction*, a contract cannot require

one party to indemnify another for the latter's own negligence unless that intent is expressed clearly. Here, the contract did not require Scallon to indemnify S&B or Sunoco for their own negligence. Instead, it required Scallon to indemnify them only for Scallon's proportional share of fault. Because the agreement expressly limited indemnity to Scallon's own negligence, it complied with the express-negligence doctrine. Texas law allows a party to settle first and then pursue indemnity, but the settling party must prove the settlement was reasonable and made in good faith, and the indemnitor bears some allocable share of responsibility for the underlying liability. Thus, S&B and Zurich may attempt to prove Scallon's share of responsibility on remand. Further, Zurich's claim was timely because limitations for indemnity claims begin when the indemnitee's liability becomes "fixed and certain," typically by settlement or judgment. Because Zurich intervened within four years of the settlement, its claim was not time-barred.

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## **-Derivative Claims**

[In re Kona Coast Venture, LTD; Kona Coast, LLC; William Koriath; WTK Dev., LLC; Guadalupe 306, LP; Guadalupe 306 GP, LLC; Oxbow Land Partners, LLC; Hideout on the Horseshoe, LLC; Whitewater Sports, LLC; & TBOTG Dev., Inc., No. 03-25-00746-CV, 2026 WL 63105 \(Tex. App. Jan. 8, 2026\)](#)

***In a derivative suit involving closely held entities, the trial court abused its discretion by striking the entities' intervention and refusing to appoint a statutorily required independent panel, but properly ordered in camera review of allegedly privileged documents.***

**Facts:** This mandamus proceeding arose from a complex business dispute between investors William Koriath and Andrew Priest involving multiple closely held entities connected to the Whitewater Amphitheatre and related real estate and entertainment ventures in the New Braunfels area. Priest and his entities sued Koriath and entities he controlled, asserting both direct and derivative claims for breach of contract, breach of fiduciary duty, fraud, and related theories. The plaintiffs asserted derivative claims on behalf of several LLCs and a limited partnership but did not name those entities as defendants. After bankruptcy proceedings stayed the case for more than a year, the affected entities intervened, filing a verified plea in intervention and requesting appointment of an independent panel under the Texas Business Organizations Code to evaluate whether the derivative claims should proceed. The trial court struck the intervention, denied appointment of an independent panel, and separately ordered certain allegedly privileged documents to be submitted for in camera review. The defendants and intervenor entities sought mandamus relief.

**Issues:** (1) Did the trial court abuse its discretion by striking the intervenor companies' plea in intervention in a derivative lawsuit? (2) Did the trial court abuse its discretion by denying the intervenor companies' request to appoint an independent panel to assess derivative claims under the Texas Business Organizations Code? (3) Did the trial court abuse its discretion by ordering allegedly privileged documents to be submitted for in camera review?

**Holding:** The 3<sup>rd</sup> Court of Appeals conditionally granted mandamus relief in part, holding that the trial court abused its discretion by striking the plea in intervention and by refusing to appoint an independent panel as required by the Business Organizations Code for derivative claims against non-governing third parties in closely held entities. The court held that the statutory derivative-suit formalities applied and were mandatory. However, the court denied mandamus relief as to the discovery order, holding that requiring in camera review of allegedly privileged documents was not an abuse of discretion. The court directed the trial court to vacate its order striking the intervention and denying the independent panel, and remanded for further proceedings consistent with the opinion.

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## **-DTPA**

JEFFREY MCCARTHY AND MELISSA MCCARTHY, Appellants v. WISCH AUTO GROUP, INC., D/B/A BAYWAY CHEVROLET, Appellee, No. 14-24-00040-CV, 2026 WL 771396 (Tex. App. Mar. 19, 2026)

**Dealer cannot treat a completed retail installment sale as conditional on financing; misrepresenting contract rights and using coercive collection tactics supports DTPA and TDCA liability, and jury findings to the contrary were factually insufficient.**

**Facts:** Jeffrey and Melissa McCarthy purchased a Chevy Silverado from Bayway Chevrolet under a Retail Installment Sales Contract (RISC). The contract identified Bayway as the seller/creditor and did not condition the sale on third-party financing. At the same time, Bayway had only obtained conditional financing approval from GM Financial, which it did not disclose to the buyers. After the condition failed and financing was denied, Bayway, demanded return of the Silverado despite the executed RISC, failed to pay off the loan on the McCarthys' trade-in vehicle (Nissan), which was later repossessed, accused the buyers of fraud and theft, reported the vehicle as stolen, and initiated criminal complaints and engaged in repeated harassment and repossession efforts. The McCarthys sued for multiple claims (DTPA, TDCA, fraud, Finance Code violations, ECOA, etc.). A jury returned a take-nothing judgment for the dealership. The McCarthys appealed.

**Issues:** (1) Did the trial court err in granting summary judgment on the claim that Bayway failed to provide required adverse-action notice? (2) Was there factually sufficient evidence supporting the jury's findings that Bayway, did not violate the DTPA (no deceptive or unconscionable conduct), did not violate the Texas Debt Collection Act (TDCA), was not a creditor and the transaction was not consumer debt and did not commit fraud or violate Finance Code provisions?

**Holding:** The 14<sup>th</sup> Court of Appeals affirmed in part, reversed in part, and remanded back to the trial court. The court held that the RISC was unambiguous and made Bayway the creditor. Texas law prohibits conditioning a retail installment contract on later assignment to a lender.

Bayway's claim that the sale was "not final" was contrary to the contract and law. Regarding the DTPA claims, the evidence showed Bayway misrepresented that financing was secured, misrepresented the buyers' rights under the RISC, and attempted to unwind a completed sale. These misrepresentations were a producing cause of damages (including loss on the trade-in vehicle). The jury's "no violation" finding was against the great weight of the evidence. The court also held that Bayway knew financing was conditional but failed to disclose it. It placed buyers "outside the credit market" while the deal was uncertain. This supported grossly unfair conduct. As to the TDCA violations the evidence showed Bayway threatened criminal prosecution, filed theft complaints and triggered arrest warrants and made repeated harassing calls. The debt was clearly consumer debt, and Bayway was a creditor under the RISC. The jury findings to the contrary were factually unsupported. The court held that under the ECOA there was no violation for failure to notify about GM Financial's denial (Bayway did not take that adverse action). However, a fact issue existed as to whether Bayway itself, as creditor, took adverse action by attempting to cancel the contract without notice. The court reversed and remanded as to the DTPA claims, TDCA claims, fraud and Finance Code claims and part of the ECOA claim (based on Bayway acting as a creditor). The remainder of the judgment was affirmed.

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## **-Exclusivity Clause**

[Equinor Energy LP v. Lindale Pipeline, LLC](#), No. 24-0425, [2026 WL 705761](#) (Tex. Mar. 13, 2026)

### ***Exclusivity Clause unambiguously applied only to operations "on the Pipeline" – reversed***

**Facts:** Lindale Pipeline contracted with Equinor Energy's predecessor to provide water to Equinor's predecessor for its fracking operations. Under the contract, Lindale provides and pumps the water through a pipeline that runs directly to the well sites. Relevant here, the contract makes Lindale the "exclusive water provider and pumper on the Pipeline." After Equinor acquired its predecessor, it began purchasing water for its wells from other suppliers that don't use the pipeline. Lindale sued Equinor for breach of contract, arguing that the contract gives Lindale the exclusive right to supply water for Equinor's fracking operations. The district court deemed the exclusivity clause ambiguous and submitted the question of its meaning to a jury. The jury sided with Lindale, and court of appeals affirmed.

**Issue:** Did a fracking company breach a contract with its water supplier by purchasing water from other suppliers?

**Holding:** No. The Texas Supreme Court reversed and rendered judgment for Equinor. The Court held that the exclusivity clause unambiguously applies only to pumping operations "on the Pipeline." Because Equinor's wells are not "on the Pipeline," they fall outside the scope of the exclusivity clause. As such, the district court erred in submitting the question of the clause's meaning to the jury.

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## **-Forum Selection**

**Trial court did not abuse its discretion by refusing to enforce the alleged Alberta forum-selection clause or by denying Flexpipe’s motion to compel additional discovery on the forum issue.**

**Facts:** SM Energy (a Texas oil & gas company) sued Flexpipe (a Canadian pipe supplier) in Howard County, Texas district court, claiming Flexpipe provided defective composite pipe for its Texas gas-lift operations. Over 10 years, SM Energy placed ~156 orders. Flexpipe sent an Order Acknowledgment (OA) for each, detailing price/quantity/shipping plus a returns/credits policy (before a signature line stating: “By signing below, I agree the sales order is subject to [Flexpipe’s] terms and conditions”). SM Energy never signed any OA. The OA's reverse side (in small print) contained General Terms & Conditions, including a clause deeming acceptance of shipment or proposal as acceptance of all terms, and a forum-selection clause requiring exclusive jurisdiction in Alberta, Canada courts. SM Energy later issued its own Blanket Purchase Orders (BPOs). Flexpipe moved to dismiss the suit based on the Alberta forum clause (via forum non conveniens), arguing SM Energy accepted the terms by taking delivery, not objecting, and benefiting from returns/credits (equitable estoppel). SM Energy opposed, asserting no agreement existed without its signature on the OAs. The trial court allowed limited discovery on the forum issue, then denied Flexpipe's motion to dismiss and its motion to compel additional discovery (e.g., SM Energy's internal Authorizations for Expenditure (AFEs), invoices, emails). Flexpipe sought mandamus relief from the Eleventh Court of Appeals.

**Issue:** (1) Did the trial court abuse its discretion by denying Flexpipe’s motion to dismiss based on the forum-selection clause (i.e., whether a valid, enforceable agreement to litigate exclusively in Alberta existed, and whether equitable estoppel applied)? (2) Did the trial court abuse its discretion by denying Flexpipe’s motion to compel discovery regarding the forum dispute?

**Holding:** The 11<sup>th</sup> Court of Appeals denied mandamus and lifted the stay, ruling the trial court did not clearly abuse its discretion. The court held that no enforceable forum-selection clause existed because the OAs expressly required a signature for acceptance of terms/conditions; SM Energy never signed, and acceptance by shipment/delivery/course of dealing did not override that requirement. Equitable estoppel also did not apply: SM Energy's claims (breach of its BPOs + implied warranties) did not rely on the OAs, no evidence showed SM Energy actually used the returns/credits provision, and the provision was separate from the signature-required terms. Denial of discovery denial was proper: Given the signature requirement, further documents (AFEs etc.) had no reasonable chance of proving acceptance or aiding resolution. Mandamus denied and temporary stay dissolved.

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## **-Governmental Immunity**

[4 Fams. of Hobby, LLC v. City of Houston, Texas](#), No. 24-0796, [2026 WL 70833](#) (Tex. Jan. 9, 2026)

**Municipal concession contract may trigger Chapter 252 if it reasonably requires city expenditures over \$50,000, and a plaintiff is entitled to jurisdictional discovery before dismissal of such claims.**

**Facts:** For more than twenty years, Pappas Restaurants and related entities operated food and beverage concessions at Houston’s Hobby Airport. After a multi-year competitive process, the City of Houston awarded a new ten-year concession contract to a different vendor, Areas HOU JV, LLC. Pappas sued the City, alleging the contract was void because the City failed to comply with Chapter 252 of the Texas Local Government Code, which requires certain competitive procurement procedures for contracts requiring municipal expenditures over \$50,000. The City filed a plea to the jurisdiction, arguing the contract was a revenue-generating agreement and did not require any City expenditure triggering Chapter 252. The trial court denied the plea without allowing jurisdictional discovery. The court of appeals reversed and dismissed the Chapter 252 claims, concluding the contract did not require qualifying expenditures.

**Issues:** Could the concession agreement reasonably be read to require the City to make expenditures exceeding \$50,000, thus triggering Chapter 252 and waiving governmental immunity? (2) Was Pappas entitled to jurisdictional discovery before dismissal of its Chapter 252 claims?

**Holding:** Yes on both issues. The Texas Supreme Court held that the concession agreement could reasonably be read to require City expenditures exceeding \$50,000, particularly provisions requiring the City to provide and maintain utilities and public areas—and that Pappas was entitled to jurisdictional discovery to develop evidence on that issue. The Court reversed the court of appeals’ dismissal of the Chapter 252 claims and remanded the case to the trial court for jurisdictional discovery.

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[EAST LAKE HOUSTON MANAGEMENT DISTRICT, Appellant v. AUC GROUP, LLC, Appellee](#), No. 14-24-00495-CV, [2026 WL 844389](#) (Tex. App. Mar. 26, 2026)

**Governmental immunity is waived under Chapter 271 for contracts providing goods or services to a governmental entity, but no waiver exists for negligent misrepresentation absent a statutory basis, requiring dismissal of the tort claim.**

**Facts:** AUC Group, LLC entered two “equipment lease” agreements with East Lake Houston Management District, a governmental entity, to construct, install, and lease water and wastewater treatment facilities and related infrastructure. AUC agreed to advance significant upfront costs (over \$1 million) for engineering, permitting, and project development, with repayment incorporated into lease payments. AUC alleged that the District failed to move the projects forward and failed to provide required proof of financing, breaching the leases. AUC also alleged

negligent misrepresentation, claiming the District falsely represented that financing had been secured before execution of the agreements. The District filed a plea to the jurisdiction, asserting governmental immunity and arguing no waiver applied to either claim. The trial court denied the plea.

**Issues:** (1) Did AUC plead facts establishing a waiver of governmental immunity for its breach-of-contract claim under Chapter 271 of the Texas Local Government Code? (2) Was immunity waived for AUC's negligent misrepresentation claim under the Texas Tort Claims Act or otherwise? (3) Should AUC be given an opportunity to replead its tort claim?

**Holding:** The 14<sup>th</sup> Court of Appeals held that AUC sufficiently pled a waiver of immunity for its breach-of-contract claim because the leases constituted written contracts for providing goods or services to a governmental entity under Chapter 271. Thus, the trial court properly denied the plea to the jurisdiction on that claim. However, the court held that AUC failed to plead any waiver of immunity for its negligent misrepresentation claim, as the Texas Tort Claims Act does not apply and the proprietary-function exception is inapplicable to special districts. Because the defect could not be cured, dismissal was proper. The court therefore affirmed in part, reversed in part, and rendered judgment dismissing the tort claim.

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## **-Impossibility of Performance**

V247 POWER CORPORATION, Appellant v. ITALIAN JEWEL CORPORATION, Appellee, --- S.W.3d ---- (Tex.App.-Hous. (14 Dist.), 2026)

**Retail electric provider failed to conclusively prove impossibility of performance, but breach-of-contract damages award was reversed where the plaintiff's damage testimony was speculative and legally insufficient to support the contract's damages formula.**

**Facts:** V247 Power Corporation, a retail electric provider, contracted to supply electricity to Italian Jewel Corporation, which operated the Best Western Plus Lake Jackson Inn & Suites in Brazoria County. The contract set a fixed electricity rate of \$0.05856 per kWh for an 18-month term beginning July 14, 2021. In May 2022, V247 exited the Texas electricity market after ERCOT terminated its market participant agreement when V247 failed to designate a qualified scheduling entity or meet creditworthiness requirements. As a result, the Public Utility Commission transferred V247's customers to a provider of last resort. Italian Jewel initially received electricity from TXU Energy and later switched to Hudson Energy at a higher rate. Italian Jewel sued V247 for breach of contract and DTPA violations. After a bench trial, the court ruled for Italian Jewel on the contract claim and awarded \$20,839 in damages and \$9,521 in attorney's fees. V247 appealed.

**Issues:** (1) Did V247 conclusively establish the affirmative defense of impossibility of performance due to illegality? (2) Was the evidence legally sufficient to support the damages awarded for breach of contract?

**Holding:** The court held that V247 did not conclusively prove impossibility of performance, but the evidence supporting the damages award was legally insufficient. The doctrine excuses performance when a supervening change in law makes contractual performance illegal. V247 argued that ERCOT's actions effectively prevented it from performing the contract. The court rejected this argument because V247 failed to identify any change in law that made performance illegal. The evidence showed that ERCOT revoked V247's rights after V247 failed to meet operational requirements, not because performance became unlawful. Thus, the defense was not conclusively established. The contract contained a specific formula for damages if V247 terminated early: Estimated remaining usage × (Market rate – Contract rate). Although the evidence supported findings regarding the market rate and contract rate, the plaintiff's witness testified only to a "rough calculation" of about \$20,000 and did not provide evidence of the estimated remaining electricity usage required by the contract formula. Because the damages testimony was speculative and unsupported by the required usage data, the evidence could not support the full damages award. However, the record suggested some lesser amount of damages existed, so the proper remedy was reversal and remand for a new trial, including retrial of attorney's fees. Because the proper amount of damages could not be determined from the record, the court reversed the judgment and remanded the case for a new trial.

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## **-Pricing**

[VENABLE'S CONSTRUCTION, INC., Appellant/Cross-Appellee v. ASPEN MIDSTREAM, LLC, Appellee/Cross-Appellant](#), No. 01-24-00702-CV, [2025 WL 3768331](#) (Tex. App. Dec. 31, 2025)

***Lump-sum contract capped compensation and barred recovery for additional footage and bores – no duty to defend when party never demanded a defense, leaving no justiciable controversy.***

**Facts:** Aspen Midstream, LLC hired Venable's Construction, Inc. under a written master construction agreement to build approximately 56 miles of 30-inch pipeline for a lump-sum price of about \$39 million. During construction, the pipeline route changed, resulting in slightly more footage and more pipeline installed by boring rather than open-cut methods. Aspen paid the lump sum and certain change orders, but Venable's demanded an additional \$1.77 million, claiming the extra footage and bores constituted compensable "Extra Work" under the contract's unit-price provisions. Aspen refused. Venable's sued for breach of contract and alternative equitable theories. Aspen counterclaimed for a declaration that Venable's had a duty to defend Aspen's affiliate in a landowner lawsuit arising from alleged property damage caused by pipeline construction.

**Issues:** (1) Did the contract entitle Venable's to compensation beyond the lump-sum price for additional pipeline footage and bores as "Extra Work."? (2) Could Venable's recover under quantum meruit, promissory estoppel, or the Prompt Payment Act despite the existence of an

express lump-sum contract (3) Did Venable's have a contractual duty to defend Aspen's affiliate in the landowners' lawsuit?

**Holding:** No on all issues. The 1<sup>st</sup> Court of Appeals held that the contract unambiguously capped Venable's compensation at the lump-sum price and that the additional footage and bores did not constitute "Extra Work," defeating Venable's contract and equitable claims; however, the court reversed the declaratory judgment on the duty to defend, holding that no justiciable controversy existed because Aspen chose to provide its own defense and never demanded one, and remanded for reconsideration of attorney's fees.

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## -Privity of Contract

[Third Coast Servs., LLC v. Castaneda](#), No. 23-0848, [2025 WL 3558839](#) (Tex. Dec. 12, 2025)

**Statutes application not limited to only contractors who contract with TXDOT directly-privity not required**

**Facts:** Pedro Castaneda was fatally struck by two trucks while he drove across State Highway 249. At the time of the accident, the intersection and surrounding area were under construction because Montgomery County was constructing a toll road over the SH 249 right-of-way under a contract with TxDOT. Castaneda's family sued SpawGlass, the County's general contractor, and Third Coast, a subcontractor hired to install traffic signals. SpawGlass and Third Coast moved for summary judgment under a statute that extinguishes liability against a contractor who constructs or repairs a highway, road, or street for TxDOT if certain other requirements are met. The trial court denied summary judgment. The court of appeals affirmed, holding that the statute does not apply because the contractors failed to establish that they have a contractual relationship with TxDOT.

**Issue:** Does the statute providing a defense from liability for a contractor who constructs or repairs a highway "for the Texas Department of Transportation" require contractual privity between that contractor and TxDOT?

**Holding:** The Supreme Court reversed. The Court held that the statute does not limit its application to contractors who contract with TxDOT directly. The Court instead concluded that a contractor's work is for TxDOT, and therefore within the statute's scope, if TxDOT will be a recipient, owner, or user of that work. Here, because the contractors performed work on a part of the project TxDOT would operate and maintain, the contractors conclusively established that their work was for TxDOT. The Court also held that work on traffic signals constitutes construction or repair of a highway within the meaning of the statute. The Court remanded the case to the court of appeals to determine whether the contractors conclusively established the other elements of their statutory defense.

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## -Specific Performance

KEITH BRYAN BAIZER, TROY POHLMAN, PAUL GOLDBERG, DENNIS CARAFIOL, DOUGLAS COHEN, AND HOUSTON-LADUE PARTNERS, A MISSOURI PARTNERSHIP, WHICH IS ALSO KNOWN AS HOUSTON LADUE PARTNERSHIP, Appellants v. CLARENCE "RAY" SHAW, Appellee, No. 14-24-00072-CV, 2025 WL 3481342 (Tex. App. Dec. 4, 2025)

**Facts:** Shaw leased a residence beginning in 1996 under a standard form lease that included a handwritten option allowing the tenant to purchase the property for \$70,000 “anytime during the lease term.” The lease was repeatedly renewed and extended over more than 20 years, eventually with Shaw personally, rather than Sterling Management Trust, signing as tenant. In 2021, Shaw attempted to exercise the purchase option and filed suit for specific performance when the property owner—Houston-Ladue Partners, a Missouri general partnership—and its general partners did not convey the property. A jury found the parties intended to include the purchase option in the original 1996 lease but did not intend to include it in the 2019 extension; the trial court disregarded the latter finding, granted specific performance, awarded Shaw attorney’s fees, and ordered reimbursement of rent paid after the exercise of the option.

**Issues:** (1) Did the trial court properly disregard the jury’s finding regarding the 2019 lease extension and properly conclude as a matter of law that the purchase option remained enforceable? (2) Can the general partners and/or partnership be held liable under the lease and option? (3) Were Shaw’s claim was barred by limitations or statute of frauds? (4) Did Shaw prove entitlement to specific performance, including being ready, willing, and able to perform? (5) Did the trial court properly award post-exercise rent reimbursement and attorney’s fees?

**Holding:** The 14<sup>th</sup> Court of Appeals held that the unambiguous lease language extended the “lease term” through all renewals, and Shaw remained the tenant entitled to enforce the option, making the jury’s contrary finding immaterial. The general partners were jointly and severally liable for partnership obligations. Limitations and statute-of-frauds defenses were waived by failure to renew directed-verdict motions and were not conclusively proved. However, the trial evidence did not conclusively establish that Shaw was ready, willing, and able to purchase the property when he exercised the option, so specific performance was improper. The court rendered judgment that Shaw take nothing on specific performance, reduced the rental reimbursement from \$23,345 to \$15,225 based on conclusive proof of payments made, and remanded for a redetermination of attorney’s fees; the remaining portions of the judgment were affirmed.

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## CRIMINAL LAW

### -Assault – Public Servant

Pitts-Marshall v. State, No. 14-24-00307-CR, 2025 WL 3545794 (Tex. App. Dec. 11, 2025)

**Federal ICE/HSI agent exercising state-granted arrest authority under Texas law acts as an agent of the State and thus qualifies as a public servant.**

**Facts:** Pitts-Marshall drove into a parking lot outside an office building housing a joint state–federal law enforcement task force, where his passenger attempted to break into a vehicle. Two federal officers—an ICE special agent and an HSI supervisor—approached after observing the activity and identifying themselves as police. As the officers attempted to detain the passenger, Pitts-Marshall reversed his vehicle, running over the supervisor’s foot and nearly pinning him against another vehicle, prompting the ICE agent to fire warning shots. Pitts-Marshall then stopped and surrendered. He was charged and convicted of aggravated assault on a public servant, with the HSI supervisor alleged as the public servant.

**Issue:** Does a federal ICE/HSI agent qualify as a “public servant” under Texas Penal Code § 1.07(a)(41) for purposes of aggravated assault under § 22.02.?

**Holding:** Yes. The 14<sup>th</sup> Court of Appeals held that although “government” in the Penal Code refers to the State of Texas and excludes the federal government, a federal ICE/HSI agent exercising state-granted arrest authority under Code of Criminal Procedure article 2A.002 acts as an “agent” of the State and therefore qualifies as a public servant; accordingly, the evidence was legally sufficient to support the conviction for aggravated assault of a public servant, and the judgment was affirmed.

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## **-Appellate Delay**

[Ordonez v. State](#), No. 07-25-00080-CR, [2025 WL 3522380](#) (Tex. App. Dec. 8, 2025)

***A five-year delay in forwarding a notice of appeal did not violate due process because the appellant failed to show any resulting prejudice.***

**Facts:** Ordonez pleaded guilty in 2018 to possession of less than one gram of methamphetamine. The trial court deferred adjudication and placed him on community supervision. In 2018 the State moved to adjudicate, alleging four violations. At a 2019 hearing, Ordonez pleaded “not true,” but the court adjudicated guilt, sentenced him to eighteen months’ incarceration, and imposed a \$1,500 fine. He timely filed a notice of appeal and obtained an appeal bond, but the district clerk did not forward his notice of appeal to the Court of Appeals until over five years later, in February 2025.

**Issues:** Did the district clerk’s approximate 5½-year delay in forwarding the notice of appeal violated appellant’s constitutional right to due process?

**Holding:** No. The 7<sup>th</sup> Court of Appeals affirmed the judgment. Although the delay was substantial and the record showed no justification for it, Ordonez failed to demonstrate prejudice, which is required to establish a due-process violation. He was not incarcerated during the delay because he remained free on an appeal bond; he identified no anxiety or concern caused by the delay; and the delay did not impair any grounds for appeal, especially given his admissions to multiple community-supervision violations, each independently sufficient to support adjudication. Without a showing of prejudice, no due-process violation occurred. The court

rejected his request for remand, noting he may instead pursue relief through an application for writ of habeas corpus.

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## **-Appellate Jurisdiction**

[EX PARTE ANNA GILDON, Appellant EX PARTE ROBERT GILDON, Appellant EX PARTE FELICIA MIMMS, Appellant](#), No. 01-24-00091-CR, [2026 WL 616304](#) (Tex. App. Mar. 5, 2026)

**Court of appeals lacks jurisdiction to review the denial of an Article 11.072 habeas application unless the trial court judge signs a written order disposing of the application- associate judge's order alone is not appealable.**

**Facts:** In the mid-1980s, several individuals were prosecuted for aggravated sexual assault of a child during the period often referred to as the “Satanic Panic” or daycare abuse hysteria. Robert Gildon, Anna Gildon, and Felicia Mimms were co-defendants in one of those prosecutions. Their trial ended in a hung jury, after which each defendant entered no-contest pleas and was placed on deferred-adjudication community supervision for eight years, which they completed in the 1990s. Nearly thirty years later, the appellants filed applications for writs of habeas corpus under Article 11.072 of the Texas Code of Criminal Procedure, asserting actual innocence based on allegations that the prosecutions arose from the 1980s daycare hysteria, that a prosecutor involved later resigned his law license, and that the complainant had recanted. The writ applications were apparently referred to an associate judge, who denied the applications and signed written orders adopting the State’s proposed findings of fact and conclusions of law. The appellants attempted to appeal those denials to the court of appeals. The State moved to dismiss the appeals, arguing that the orders were signed by an associate judge rather than the trial court judge, and therefore were not appealable orders under Article 11.072.

**Issues:** (1) Does a written order signed by an associate judge denying an Article 11.072 habeas application constitute a final, appealable order? (2) Does the associate judge’s order become a final decree of the trial court if the trial court judge does not modify or reject it within the time allowed under the associate-judge statute? (3) Does waiver, estoppel, or invited error confer appellate jurisdiction where no appealable order exists?

**Holding:** The 1<sup>st</sup> Court of Appeals dismissed the appeals for lack of jurisdiction, holding that only a written order signed by the trial court judge disposing of an Article 11.072 habeas application constitutes an appealable order, and an associate judge’s ruling—unless adopted by the trial court in a written order—does not create appellate jurisdiction. Appeals dismissed.

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## **- Bail**

[Ex parte Victor Elias Martinez](#), No. 03-25-00314-CR, [2026 WL 607263](#) (Tex. App. Mar. 4, 2026)

**Under Article 17.151, the 90-day readiness requirement applies separately to each criminal action, and when the State indicts a defendant within 90 days of the arrest or charge for that offense, the defendant is not entitled to release or bail reduction.**

**Facts:** Martinez was arrested in September 2024 and remained in pretrial detention after authorities located him in a hotel room with two missing fifteen-year-old girls. One of the girls reported that Martinez held her against her will for several months and sexually assaulted her. After the investigation, Martinez was charged with several offenses, including kidnapping, smuggling a person, aggravated assault, and aggravated sexual assault. Different arrest warrants for these offenses were issued at different times. Martinez was first arrested on kidnapping charges in September 2024. An arrest warrant for aggravated sexual assault was issued later, on January 13, 2025. Martinez filed a pretrial habeas corpus application under Texas Code of Criminal Procedure article 17.151, arguing that the State was not ready for trial within 90 days of his detention and therefore he was entitled to release on personal bond or a reduction in bail. The trial court granted relief for five of the charges but denied relief for the aggravated sexual assault charge, concluding that the State obtained an indictment within 90 days of Martinez’s arrest for that offense. Martinez appealed that denial.

**Issues:** (1) Does the 90-day deadline under Article 17.151 run from the defendant’s first arrest for any offense arising out of the same criminal episode? (2) Does the 90-day period begin separately for each criminal action when the defendant is arrested or charged with that specific offense? (3) Did the State obtain the indictment for aggravated sexual assault within the applicable 90-day period?

**Holding:** Affirmed. The 3<sup>rd</sup> Court of Appeals affirmed the trial court’s denial of habeas relief, holding that Article 17.151’s 90-day deadline applies separately to each criminal action, not to all offenses arising out of the same criminal episode. Because the State obtained an indictment for aggravated sexual assault within 90 days of the arrest warrant for that offense, Martinez was not entitled to release or bail reduction.

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## **-Charging Instrument**

[Lee Christopher Vaughn, Appellant v. The State of Texas, Appellee](#), No. 03-24-00794-CR, [2025 WL 3484809](#) (Tex. App. Dec. 4, 2025)

**Removing unnecessary mens rea language from the information on the day of trial did not prejudice the defendant; conviction affirmed.**

**Facts:** Vaughn lived with his long-term girlfriend and her children, including L.M., the minor complainant. After L.M. made outcries of sexual misconduct, police interviewed Vaughn, during which he admitted showing L.M. videos of women masturbating that he described as “pornographic,” and confirmed he provided her a vibrator and discussed sex and masturbation with her. L.M. testified that he repeatedly initiated sexual conversations, touched her inappropriately, and showed her explicit pornography. Vaughn was charged with displaying harmful material to a minor under Penal Code § 43.24(b)(2). On the first day of trial, the State successfully deleted the words “intentionally and knowingly” from the information. The jury

convicted, and the trial court imposed a suspended 180-day sentence with two years of community supervision.

**Issues:** (1) Did the trial court err by permitting the State to amend the information on the day of trial by removing the “intentionally and knowingly” culpable mental state? (2) If error occurred, did the amendment prejudice Vaughn’s substantial rights or require automatic reversal?

**Holding:** No on both issues. The 3<sup>rd</sup> Court of Appeals held that there was no reversible error. The court noted an ongoing split among appellate courts as to whether removing non-statutory surplusage in a charging instrument constitutes an amendment or permissible abandonment, and whether a material-variance test applies post-*Gollihar*. Regardless of which framework governs, deletion of unnecessary *mens rea* language here did not prejudice Vaughn: the statute did not require that mental state for the display element, the modification did not alter the charged offense, notice was sufficient, and the evidence of guilt — including Vaughn’s own admissions and L.M.’s testimony — was strong. Any error was harmless. Affirmed.

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## **-Civil Commitment**

[In re Commitment of Eddings](#), No. 02-25-00523-CV, [2025 WL 3558968](#) (Tex. App. Dec. 11, 2025)

***Sexually violent predator biennial-review order continuing a civil commitment is not appealable – mandamus denied.***

**Facts:** Eddings was civilly committed in 2019 after a jury found him to be a sexually violent predator under Chapter 841 of the Texas Health and Safety Code. The commitment was affirmed on direct appeal. In August 2025, following the statutorily required biennial review, the trial court reviewed an expert report, treatment progress, and a case-manager recommendation and continued all existing commitment requirements without modification, finding by a preponderance of the evidence that Eddings remained likely to engage in predatory sexual violence. Proceeding pro se, Eddings attempted to bring a restricted appeal from the biennial-review order and alternatively asked that the appeal be treated as a petition for writ of mandamus.

**Issues:** (1) Is the trial court’s biennial-review order continuing Eddings’s civil commitment a final judgment or appealable interlocutory order? (2) If not appealable, should the court of appeals treat the attempted appeal as a petition for writ of mandamus and grant relief?

**Holding:** The 2<sup>nd</sup> Court of Appeals dismissed the appeal for lack of jurisdiction, holding that a Chapter 841 biennial-review order continuing an existing commitment is neither a final judgment nor an appealable interlocutory order. Treating the filing as a petition for writ of mandamus at Eddings’s request, the court denied mandamus relief. Denied and dismissed.

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[S. D. W. v. State](#), No. 03-25-00544-CV, [2026 WL 307396](#) (Tex. App. Feb. 5, 2026)

**Evidence of mental illness and delusions, without clear proof of overt acts or inability to function independently, was legally insufficient under Texas civil commitment statutes.**

**Facts:** S.D.W., a woman diagnosed with serious mental illness, was indicted for harassment of a public servant but was found incompetent to stand trial. She was initially committed to a mental-health facility for competency restoration but was later returned to jail after doctors determined she was unlikely to regain competency. The State filed an application seeking her involuntary civil commitment for extended inpatient mental-health services while criminal charges remained pending. At a civil-commitment bench trial, the State presented expert testimony and medical examination certificates diagnosing her with schizophrenia or bipolar disorder and describing delusional thinking, disorientation, refusal of medication, and disruptive courtroom behavior. The trial court found she met statutory criteria for involuntary commitment and ordered her committed to a state mental-health facility for 12 months. S.D.W. appealed, arguing the evidence was legally insufficient to support involuntary commitment.

**Issues:** (1) Did the State present legally sufficient clear and convincing evidence to support involuntary civil commitment? (2) Specifically, did the State prove a recent overt act or continuing pattern of behavior demonstrating substantial deterioration in S.D.W.'s ability to function independently, as required by statute? (3) Was evidence of mental illness and delusional thinking alone sufficient to justify involuntary inpatient commitment?

**Holding:** No. The 1<sup>st</sup> Court of Appeals reversed the trial court's commitment order and rendered judgment denying civil commitment, ordering S.D.W.'s immediate release. The court held that although expert testimony established that S.D.W. suffered from mental illness and exhibited delusions and disorganized thinking, the State failed to present legally sufficient evidence of a recent overt act or continuing pattern of behavior demonstrating substantial deterioration in her ability to function independently. Evidence of mental illness, delusions, refusal of medication, and disruptive behavior—without specific evidence showing inability to provide for basic needs such as food, clothing, health, or safety—was insufficient under the statutory clear-and-convincing evidence standard. Because involuntary commitment significantly deprives a person of liberty, strict statutory proof requirements must be satisfied, and those requirements were not met here.

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[In re The Commitment of Desiree Hamm](#), No. 03-25-00266-CV, [2026 WL 319781](#) (Tex. App. Feb. 6, 2026)

**Evidence sufficient to support SVP finding**

**Facts:** Hamm was convicted in 2011 of multiple sexually violent offenses involving two teenage sisters whom she groomed online, manipulated emotionally, persuaded to run away from home, transported across state lines, and sexually assaulted. She used psychological manipulation,

deception, coercion, violence, and sadomasochistic conduct against the victims. Hamm had engaged in similar grooming and sexual conduct with another minor before those offenses. As Hamm approached release from prison, the State petitioned to civilly commit her as a sexually violent predator (SVP) under the Texas SVP Act. The State presented testimony from three forensic experts—a psychiatrist and two psychologists—who evaluated Hamm and concluded she suffered from personality disorders and sexual deviance constituting a behavioral abnormality that made her likely to engage in predatory sexual violence. The jury unanimously found beyond a reasonable doubt that Hamm was an SVP, and the trial court entered a civil commitment order. Hamm appealed.

**Issues:** (1) Did the trial court abuse its discretion by admitting expert testimony about Hamm’s risk of reoffending, given limited research on female sex offender recidivism? (2) Was the evidence legally sufficient to support the jury’s finding that Hamm was a sexually violent predator—specifically, whether she had a behavioral abnormality making her likely to engage in predatory sexual violence?

**Holding:** The 3<sup>rd</sup> Court of Appeals affirmed the trial court’s civil commitment order. The court held that the trial court did not abuse its discretion in admitting expert testimony. The experts were qualified, relied on accepted forensic psychiatry and psychology methodologies, reviewed Hamm’s records, conducted interviews, and applied accepted principles in their fields. The absence of extensive empirical research specific to female sex offenders did not render their testimony unreliable. The court also held that the evidence was legally sufficient to support the jury’s finding beyond a reasonable doubt that Hamm was a sexually violent predator. The expert testimony established that Hamm suffered from personality disorders and sexual deviance that impaired her emotional and volitional control and made her likely to reoffend. Her extensive grooming behavior, multiple victims, manipulative conduct, prior similar offenses, violence, lack of remorse, and ongoing personality pathology supported the finding of a behavioral abnormality. Affirmed.

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## **-Confrontation Clause**

***Trial court must make specific findings of necessity before screening child victim from defendant at trial***

[Pitts v. Mississippi](#), No. 24–1159, [2025 WL 3260171](#) (U.S. Nov. 24, 2025)

**Facts:** Pitts daughter reported sexual abuse by Pitts following a weekend visit, which led to criminal charges against him. At trial, the prosecution requested that a screen be placed between the child witness and Pitts during her testimony, citing a Mississippi statute that mandated such a screen in child-abuse cases. Pitts objected, contending that the statute’s mandatory requirement could not override his Sixth Amendment right to confront his accuser face to face unless the court made a case-specific finding that such a procedure was necessary to protect the witness.

The trial court granted the State's motion, reasoning that the statutory mandate left no discretion, and Pitts was convicted by a jury. On appeal, the Mississippi Supreme Court acknowledged that the trial court did not make a case-specific finding of necessity but upheld the procedure, distinguishing Supreme Court precedents and holding that the statutory requirement was sufficient authority for the use of the screen.

**Issue:** May a defendant's right to confront witnesses be denied based solely on a statute or generalized findings of necessity?

**Holding:** No. Reversed and remanded. The U.S. Supreme Court reversed the decision of the Mississippi Supreme Court. The Court held that under the Sixth Amendment, a defendant's right to confront witnesses may not be denied based solely on a statute or generalized findings of necessity. Instead, a trial court must hear evidence and make a case-specific finding of necessity before permitting screening of a child witness. The Court remanded the case, allowing the Mississippi Supreme Court to consider whether the constitutional error was harmless beyond a reasonable doubt, consistent with the harmless-error standard.

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## **-Costs**

[JOSE DELCARMEN BONILLA, Appellant v. THE STATE OF TEXAS, Appellee](#), No. 14-24-00705-CR, [2026 WL 272454](#) (Tex. App. Feb. 3, 2026)

**Criminal judgments reformed and modified to correct incorrect statements, delete unpronounced fine, eliminate duplicate fees and clarify costs not payable until defendant's release.**

**Facts:** Bonilla pleaded guilty to aggravated kidnapping and aggravated sexual assault of his minor step-daughter. The trial court assessed 50 years' imprisonment on each conviction, to run concurrently. No fines were orally pronounced at sentencing. On appeal, Bonilla did not challenge his convictions or sentences of confinement, but instead asserted multiple errors in the written judgments and bills of costs, including missing statutory citations, inaccuracies regarding victim-impact statements, improperly assessed fines and fees, and duplicate or unsupported court costs.

**Issues:** (1) Should the written judgments should be modified to include the correct statutory provisions for each offense; accurately reflect that victim impact statements were returned and considered; delete a \$100 "Child Abuse Prevention" fine not orally pronounced. (2) Did the bills of costs improperly, assess duplicate consolidated court costs; include unsupported commitment, release, and witness-summoning fees; require immediate payment despite the trial court ordering payment upon release from confinement?

**Holding:** Yes. The 14<sup>th</sup> Court of Appeals held that appellate courts may reform criminal judgments and bills of costs to make the record speak the truth. It modified the judgments to add the applicable statutes, correct the victim-impact statement entries, and delete the unpronounced \$100 fine. The court also modified the bills of costs to eliminate duplicate and unsupported fees,

reduce excessive witness-summoning charges, and clarify that costs are not payable until Bonilla's release from confinement. As modified, the judgments were affirmed.

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## **-Double Jeopardy**

Ex parte Joshua Hernandez, No. 03-25-00008-CR, [2026 WL 77267](#) (Tex. App. Jan. 9, 2026)

**Later indictment for indecency by breast-touching not barred by double jeopardy or collateral estoppel because it is a distinct offense not necessarily decided by the prior verdict, and vindictive-prosecution claims are not cognizable on pretrial habeas**

**Facts:** In 2021, Hernandez was indicted on two counts arising from alleged sexual conduct involving his adopted daughter: (1) continuous sexual abuse of a young child and (2) indecency with a child by sexual contact (genital touching). Before closing arguments at trial, the State elected to proceed only on the continuous-sexual-abuse count and abandoned the indecency-by-genital-touching count. During trial, the complainant testified not only about alleged genital touching but also that Hernandez touched her breasts during the same incident. Breast-touching, however, was not charged in the indictment and is expressly excluded by statute as a predicate act for continuous sexual abuse. The jury returned a general verdict acquitting Hernandez of continuous sexual abuse. Approximately three months later, the State indicted Hernandez for a single count of indecency with a child by sexual contact, alleging that he touched the complainant's breast on the same date referenced during the prior trial testimony. Hernandez filed a pretrial application for writ of habeas corpus and special plea, arguing that the new indictment was barred by double jeopardy, res judicata, and collateral estoppel, and that the prosecution was vindictive because the State was attempting to relitigate conduct referenced in the first trial after an acquittal. The trial court denied habeas relief, and Hernandez appealed.

**Issues:** (1) Does prosecuting Hernandez for indecency with a child by breast-touching after his acquittal for continuous sexual abuse violates the Double Jeopardy Clauses? (2) Did the jury's acquittal on the continuous-sexual-abuse charge bar prosecution for the indecency by touching charge based on res judicata/collateral estoppel? (3) Did the State's post-acquittal indictment constitute vindictive prosecution and is such a claim cognizable on pretrial habeas corpus?

**Holding:** No on all issues. Affirmed. The 3<sup>rd</sup> Court of Appeals held that the prosecution was not barred by double jeopardy because continuous sexual abuse and indecency by breast-touching are legally and factually distinct offenses with different statutory elements and allowable units of prosecution, and indecency by breast-touching is expressly excluded as a predicate offense for continuous sexual abuse. The court further held that collateral estoppel did not apply because the jury's general verdict of acquittal did not necessarily decide the factual issue of breast-touching, which was not charged and was merely evidentiary in the first trial. Finally, the court held that vindictive-prosecution claims are not cognizable on pretrial habeas corpus, as they do not implicate a right not to be tried and may be addressed through post-conviction remedies. Accordingly, the trial court's denial of habeas relief was affirmed.

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[LUAN DUC PHAM, Appellant v. THE STATE OF TEXAS, Appellee](#), No. 14-25-00295-CR, 2026 WL 873056 (Tex. App. Mar. 31, 2026)

***A jury’s guilty verdict on a lesser-included offense becomes final once confirmed by polling, and it bars any later conviction on the greater offense—any post-polling change violates double jeopardy protections.***

**Facts:** Pham was indicted for engaging in organized criminal activity, with a predicate offense of aggravated promotion of prostitution. The jury was instructed on both the greater offense and the lesser-included offense. The jury returned a verdict finding Pham guilty of the lesser offense, and each juror confirmed that verdict when polled in open court. The trial then proceeded into the punishment phase. During a recess in the punishment phase, the jury communicated with the court and was brought back into the courtroom. At that point, the trial court accepted a different verdict form reflecting a conviction for the greater offense, without repolling the jury individually. Pham was ultimately sentenced based on the greater offense.

**Issues:** (1) Did allowing the jury to change its verdict from a lesser-included offense to a greater offense after polling and after the punishment phase began violate the Double Jeopardy Clause? (2) Does a jury retain authority to correct or alter a guilt-phase verdict once it has been confirmed through polling and the trial has moved to punishment?

**Holding:** The 14th Court of Appeals reversed and remanded. The court held that once the jury returned and confirmed (via polling) a guilty verdict on the lesser-included offense, that verdict became final and operated as an implicit acquittal of the greater offense. The defendant’s jeopardy on the greater charge ended at that point. The jury had no authority to change its verdict from the lesser offense to the greater offense after polling and after the punishment phase had begun. Statutory mechanisms allowing correction of verdicts (e.g., informal verdicts or polling discrepancies) did not apply at that stage. The proper remedy was to reinstate the original conviction on the lesser offense and remand for a new punishment trial only. Reversed and remanded for new punishment trial on lesser conviction.

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## **-Error Preservation**

[DANIEL KENNETH MEEK, Appellant v. THE STATE OF TEXAS, Appellee](#), No. 09-24-00215-CR, [2026 WL 815307](#) (Tex. App. Mar. 25, 2026)

***Use of term “victim” did not warrant reversal where defendant failed to preserve error; complaint forfeited by lack of timely, specific, and repeated objections.***

**Facts:** Meek was charged with assault causing bodily injury family violence. He pleaded not guilty, but a jury convicted him and assessed 60 days in jail. At trial, the State and a witness

repeatedly used the term “victim” to refer to the complainant. Defense counsel objected once, arguing it had not been established that the complainant was a “victim.” The trial court overruled the objection. Meek did not object again when the term was used throughout the remainder of trial. On appeal, Meek argued that the repeated use of the term “victim” violated his due process rights by undermining the presumption of innocence.

**Issues:** (1) Did Meek preserve his complaint that the State’s use of the term “victim” violated his constitutional right to a fair trial? (2) Is the complained-of error (use of the term “victim”) an absolute/waivable right or a forfeitable right requiring a timely and repeated objection?

**Holding:** The 9<sup>th</sup> Court of Appeals affirmed the conviction, holding the issue was not preserved for appellate review. The complaint was forfeitable, not an absolute or waivable-only right. Meek failed to preserve error because: (1) His trial objection did not clearly raise a constitutional due process complaint; and (2) He failed to object each time the term “victim” was used.

A party must make timely, specific, and consistent objections, and the issue on appeal must match the objection made at trial. Thus, any alleged error—even constitutional—was forfeited.

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## **-Extraneous Sexual Assault (38.37)**

GARY P. JOSEPH, Appellant v. THE STATE OF TEXAS, Appellee, No. 14-25-00062-CR, 2026 WL 805756 (Tex. App. Mar. 24, 2026)

***Article 38.37 allows admission of extraneous sexual acts against the same complainant even after the complainant reaches adulthood, so long as the charged offense involved a child***

**Facts:** Joseph was charged with sexual assault of a child involving his nephew, whom he had taken into a father-like role. The complainant testified that the defendant began abusing him at approximately age 11–12 and continued through his teenage years. At age 16, the complainant described sexual assaults involving penetration and coercion. When the complainant was 18, additional assaults occurred, including incidents at a hotel and at Joseph’s home, after which the complainant made an outcry. Medical evidence and DNA analysis strongly implicated the Joseph. The State introduced extraneous offense evidence, including sexual assaults against the complainant after he reached adulthood, and prior inappropriate conduct toward another nephew. The defense argued fabrication, asserting the complainant falsely accused Joseph to protect himself from potential consequences of an aggravated robbery charge. The trial court limited cross-examination on that charge due to the complainant’s risk of self-incrimination. The jury convicted the defendant of the lesser-included offense (sexual assault of a child aged 14–17).

**Issues:** (1) Is evidence of sexual acts committed against the complainant after he became an adult admissible when the charged offense involved a child victim? (2) Should the extraneous offense evidence should have been excluded as more prejudicial than probative (Rule 403)? (3) Did limiting cross-examination about the complainant’s aggravated robbery charge violate the defendant’s constitutional rights by preventing him from showing motive to fabricate?

**Holding:** The 14<sup>th</sup> Court of Appeals affirmed the conviction and held that Article 38.37 allows admission of extraneous sexual acts against the same complainant even after the complainant reaches adulthood, so long as the charged offense involved a child. The trial court did not abuse its discretion under Rule 403; the evidence was probative of the relationship and the complainant's state of mind, and its probative value was not substantially outweighed by unfair prejudice. The trial court properly limited cross-examination to protect the complainant's Fifth Amendment privilege; the defendant's confrontation rights do not override a witness's right against self-incrimination.

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## **-Evidence**

[Hernandez v. State](#), No. PD-0176-25, [2025 WL 3693534](#) (Tex. Crim. App. Dec. 19, 2025)

***Officer lacked reasonable suspicion to lawfully detain the defendant- evidence was insufficient to support an evading-arrest conviction - judgment reversed and defendant acquitted.***

Facts: A woman called 9-1-1 to report a suspicious four-door Chevrolet Silverado driving slowly in a rural area of Willacy County, Texas. Thirty minutes later, Officer Garcia arrived and saw only Hernandez's pickup truck, which was not a Chevrolet Silverado, driving down a dirt road. Without witnessing any traffic violation or confirming the vehicle matched the caller's description, Officer Garcia activated his emergency lights to initiate a stop. Hernandez continued at a slow pace, stopped to open a gate, and was ultimately arrested after a physical altercation. Hernandez was charged with evading arrest or detention with a motor vehicle. The jury found Hernandez guilty. Hernandez moved for a directed verdict, arguing the State failed to prove the lawfulness of the attempted detention, but the motion was denied. The jury returned a guilty verdict, and Hernandez was sentenced to two years' confinement, probated for three years. On appeal, the Thirteenth Court of Appeals affirmed the conviction, holding that Officer Garcia's testimony and the circumstances were sufficient to support a finding that the detention was lawful beyond a reasonable doubt.

Issues: (1) Was the evidence legally sufficient to prove that the attempted traffic stop was lawful, an essential element of evading arrest or detention? (2) Did the officer have reasonable suspicion to initiate an investigative detention based on the 9-1-1 call, the character of the area, and Hernandez's conduct?

Holding: No as to both issues. The Texas Court of Criminal Appeals held that the evidence was insufficient for a rational juror to conclude beyond a reasonable doubt that Officer Garcia's initial stop was supported by reasonable suspicion. The court found insufficient specific, articulable facts linking Hernandez's vehicle to any criminal activity and concluded that the lawful-arrest element of the offense was not satisfied. The court reversed the judgment of the court of appeals and rendered a judgment of acquittal.

[MELVIN OMAR MORALES-GOMEZ, Appellant v. THE STATE OF TEXAS, Appellee](#), No. 14-24-00543-CR, [2025 WL 3672142](#) (Tex. App. Dec. 18, 2025)

**Evidence was legally sufficient to support felony murder based on injury to a child, and any alleged errors in expert testimony or demonstrative evidence were unreserved or harmless.**

**Facts:** Three-year-old Kyle was found unresponsive outside a hospital with Morales-Gomez, his uncle, standing nearby. Kyle was bruised over most of his body and was later diagnosed with a subdural hematoma, bilateral retinal hemorrhages, multiple fractures in various stages of healing, bite marks, and other blunt-force injuries. Despite emergency medical treatment, Kyle died three days later. Morales-Gomez was charged with felony murder, alleging that he caused Kyle's death in the course of committing the felony offense of injury to a child. At trial, the State presented extensive medical testimony describing Kyle's injuries as consistent with non-accidental trauma, testimony from witnesses describing a pattern of abuse by Morales-Gomez, physical evidence linking Kyle's blood to the apartment, and testimony from Morales-Gomez younger brother describing physical abuse by Morales-Gomez. The jury convicted Morales-Gomez of felony murder.

**Issues:** (1) Was the evidence legally sufficient to support the conviction for felony murder (2) Did the trial court err in admitting expert medical testimony regarding the cause and nature of Kyle's injuries? (3) Did the trial court abuse its discretion in admitting demonstrative video exhibits depicting mechanisms of injury, in violation of Rule 403?

**Holding:** Affirmed on all issues. The Fourteenth Court of Appeals affirmed the conviction, holding that (1) the evidence was legally sufficient to support felony murder based on injury to a child, independent of any shaken-baby theory; (2) Morales-Gomez failed to preserve his reliability complaints regarding expert testimony and, in any event, any error was harmless; and (3) admission of the demonstrative videos, even if erroneous, did not affect Morales-Gomez substantial rights in light of the other overwhelming evidence of abuse.

[CHRISTOPHER TAYLOR, APPELLANT v. THE STATE OF TEXAS, APPELLEE, No. 07-25-00010-CR, 2025 WL 3767567](#) (Tex. App. Dec. 30, 2025)

**Evidence legally insufficient to disprove Defendant's justification defenses – conviction reversed and defendant acquitted.**

**Facts:** Taylor, an Austin police officer, responded with three other officers to a 911 call involving a man, Mauris DeSilva, who was reported to be suicidal and armed with a knife inside a downtown Austin condominium building. When officers took an elevator to the fifth floor, the elevator doors opened to reveal DeSilva holding a knife. DeSilva turned toward the officers and advanced while holding the knife, ignoring commands to drop it. In the confined space, one officer deployed a taser while Taylor and another officer fired their weapons, killing DeSilva. Taylor was charged with deadly conduct for discharging a firearm and asserted self-defense and defense of others. A jury convicted him, and the trial court sentenced him to two years' imprisonment.

**Issues:** Was the evidence legally sufficient for the State to disprove beyond a reasonable doubt Taylor’s affirmative defenses of self-defense and defense of others?

**Holding:** Reversed and acquitted. The 7<sup>th</sup> Court of Appeals held that the evidence was legally insufficient to disprove Taylor’s justification defenses because the undisputed objective evidence showed Taylor reasonably believed deadly force was immediately necessary to prevent an imminent murder; therefore, the conviction was reversed and a judgment of acquittal was rendered.

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KEVIN MIGUEL ESPINAL, APPELLANT v. THE STATE OF TEXAS, APPELLEE, No. 07-25-00126-CR, 2026 WL 151519 (Tex. App. Jan. 20, 2026)

***Sending digital image of genitalia is not “exposure” and insufficient for indecency by exposure conviction***

**Facts:** Espinal was charged with multiple sexual offenses arising from allegations that he repeatedly sexually abused his stepdaughter, C.R., beginning when she was nine years old and continuing until she reported the abuse at age thirteen. The indictment included continuous sexual abuse of a child, indecency with a child by contact, and indecency with a child by exposure, the latter based on evidence that Espinal sent the child a digital image purportedly depicting his genitalia. A jury convicted Espinal on all submitted counts and imposed life sentences.

**Issues:** (1) Was the evidence legally sufficient to support the conviction for indecency with a child by exposure when the alleged exposure consisted of sending a digital photograph rather than exposing oneself in the child’s physical presence? (2) Did the trial court abuse its discretion by admitting evidence of a prior indecency-with-a-child conviction through a certified judgment? (3) Did the trial court err in denying a motion for mistrial after an expert witness gave testimony arguably implying an opinion on the complainant’s truthfulness?

**Holding:** The 7<sup>th</sup> Court of Appeals reversed and rendered an acquittal on the indecency-by-exposure count, holding that sending a digital image of one’s genitalia does not constitute “exposure” under Texas Penal Code § 21.11, which requires exposure in the child’s presence. The court affirmed the remaining convictions, holding that the prior judgment was properly admitted and that any improper expert testimony was cured by the trial court’s instruction to disregard. The court also modified the judgments to delete fines that were not orally pronounced.

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JORGE ALBERTO GOMEZ, Appellant v. THE STATE OF TEXAS, Appellee, No. 14-23-00913-CR, 2026 WL 174474 (Tex. App. Jan. 22, 2026)

***Complainant's detailed testimony alone was sufficient - memory gaps went to credibility. Grooming expert ok to testify***

**Facts:** The complainant, appellant's niece by marriage, testified that between ages 13 and 14 Gomez digitally penetrated her vagina on multiple occasions at different locations. She had clear memories of four specific incidents but testified she blocked out others due to trauma. She disclosed the abuse to her mother in June 2020, and police were notified in March 2021. At trial, the State also presented testimony from the complainant's mother as the outcry witness and a forensic interviewer who testified generally about child interviews and grooming. Gomez was convicted of sexual assault of a child and sentenced to five years' confinement.

**Issues:** (1) Could a rational jury could find guilt beyond a reasonable doubt given the complainant's partial memory lapses, delayed reporting, and alleged ulterior motive? (2) Did the trial court err in allowing a "grooming" expert to testify? (3) Did the totality of the trial (particularly the expert's testimony about no "red flags" of deception in the complainant's interview) violated Gomez's due process rights?

**Holding:** Affirmed. The 14<sup>th</sup> Court of Appeals affirmed the conviction in all respects. The complainant's detailed testimony alone was sufficient; memory gaps went to credibility (for the jury to resolve), and there was no evidence of continued exposure after outcry or improper motive. The evidence supported the finding of guilt beyond a reasonable doubt. There was no abuse of discretion; Keever's 10+ years of experience, 4,000+ interviews, continuing education, and peer reviews qualified her despite no advanced degrees. As to grooming testimony the issue was waived on appeal (inadequate briefing), but even if preserved, her general definition of grooming was admissible and not speculative. There was no fundamental unfairness; any error in unobjected-to "red flags" testimony was not preserved and did not rise to a due process violation.

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[Matthew Houston, Appellant v. The State of Texas, Appellee](#), No. 03-24-00557-CR, [2026 WL 63108](#) (Tex. App. Jan. 8, 2026)

**Facts:** JC was 6 years old when her mother had a child with Houston and Houston came to live with them. When JC reached puberty, she made two outcries that Houston was sexually abusing her, but she recanted each time. In 2021, she sent her grandmother an audio recording of Houston abusing her. Houston was convicted at a jury trial of sexual assault of a child and sentenced to 20 years.

**Issue:** Did the trial court abuse its discretion with rulings that denied Houston a fair trial? Did Houston's trial counsel have a conflict of interest? Did the State make improper opening and closing arguments that violated his right to a fair trial?

**Holding:** No to all. Houston argues that the trial court erred in denying his motion to continue and in showing partiality to the State. However, the trial court had granted a previous motion to continue, and the record shows that 17 of Houston's objections were sustained during trial, as opposed to 4 sustained for the State. Further, Houston had 2 years from his arrest until the trial was held. Finally, the trial court did not err in denying Houston's request to take still pictures from a forensic interview of the victim. Regarding his counsel's conflict of interest, one of Houston's lawyers had previously represented JC's father in 2021, around the time of the offense

at question. Houston claimed Father should have been “a central alternative suspect”, but his counsel’s conflict of interest prevented further investigation. However, Houston did not ask for a new trial based on ineffective counsel, nor did he show that anything counsel failed to do would have affected the outcome of his trial. As to the State’s improper arguments, Houston’s attorneys did not object to either the opening or closing argument, and their not doing so lies within the realm of their professional judgment. Affirmed.

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[FRANCISCO SEPULVEDA, Appellant, v. THE STATE OF TEXAS, Appellee.](#), No. 13-24-00467-CR, [2026 WL 302634](#) (Tex. App. Feb. 5, 2026)

***Defendant failed to preserve Confrontation Clause and evidentiary complaints by failing to make specific objections or request limiting instructions at trial.***

**Facts:** Sepulveda was charged with aggravated assault with a deadly weapon and assault family violence by impeding breath or circulation after an incident involving his wife, Yesenia Castaneda. On December 24, 2022, Sepulveda and Castaneda met at a hotel after Sepulveda had been drinking and was intoxicated. Sepulveda became jealous and accused Castaneda of infidelity. Inside the hotel room, Sepulveda assaulted Castaneda by choking her, threatening to kill her and her son, striking her with a firearm, and causing visible injuries, including bleeding and neck trauma. Castaneda called 911, and police responded and documented her injuries. A jury convicted Sepulveda of aggravated assault with a deadly weapon and assault family violence by impeding breath or circulation. He was sentenced to 25 years’ imprisonment for the aggravated assault and 15 years for the family violence offense, to run concurrently.

**Issues:** (1) Did the trial court violate Sepulveda’s Sixth Amendment Confrontation Clause rights by prohibiting cross-examination of the complainant about her pending criminal charges and alleged illegal conduct? (2) Did the trial court err in admitting relationship evidence and extraneous conduct, including testimony suggesting Sepulveda was jealous and possessive, and did the trial court err by failing to provide a limiting instruction regarding that evidence?

**Holding:** Affirmed on all issues. The 13<sup>th</sup> Court of Appeals affirmed the conviction, holding that Sepulveda failed to preserve his Confrontation Clause complaint for appellate review because he did not clearly articulate a Confrontation Clause objection at trial. He only argued the evidence was relevant to the complainant’s credibility and did not specifically invoke constitutional confrontation rights. As a result, the trial court was never given the opportunity to rule on that specific legal ground. The also court held Sepulveda failed to preserve complaints regarding admission of relationship evidence and extraneous conduct because he did not make specific objections at trial under Texas Rules of Evidence 403 or 404(b). Additionally, he did not request a limiting instruction. Without proper objection or request, no reversible error was shown.

[Smith v. State](#), No. 14-24-00149-CR, [2026 WL 468007](#) (Tex. App. Feb. 19, 2026)

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***Continuous sexual abuse conviction upheld as the evidence was sufficient despite vague testimony on timing and acts.***

**Facts:** Smith was convicted by a jury of continuous sexual abuse of a child under Tex. Penal Code § 21.02 for repeatedly abusing his stepdaughter. The complainant, born in 2004, testified that Smith (whom she believed to be her biological father) began the abuse shortly after her 13th birthday in 2017, penetrating her vagina with his fingers on the first occasion and repeating the act "too many times to count" every couple of weeks to a month while she was 13. The abuse continued until she was 15, when she outcried to her aunt. She could recall specific details of the first incident but not others from age 13, though she affirmed multiple occurrences. The jury assessed punishment at life imprisonment, and the trial court entered judgment including a \$100 child abuse prevention fine and reciting punishment as "life without parole."

**Issues:** (1) Was the evidence legally sufficient to support the conviction, given the complainant's allegedly vague testimony about the acts and their timing over the requisite 30-day period while she was under 14? (2) Were the assessed state (\$185) and local (\$100) consolidated court costs invalid because the offense predated the January 1, 2020, effective date of amendments to the Cost Act? (3) Should the \$100 child abuse prevention fine be deleted from the judgment, as it was not orally pronounced and the authorizing statute (Tex. Code Crim. Proc. art. 102.0186) does not apply to offenses before January 1, 2020?

**Holding:** Affirmed as modified. The 14<sup>th</sup> Court of Appeals held that the evidence was sufficient, as the complainant's testimony alone supported findings of two or more acts of aggravated sexual assault over at least 30 days while she was under 14, with reasonable inferences filling any temporal gaps; credibility determinations were for the jury. Court costs were correctly assessed based on the conviction date (post-2020), not the offense date. The fine was deleted, as the statute does not apply retroactively and it conflicted with the oral pronouncement. The judgment was modified to recite punishment as "life" (deleting "without parole"), as appellant's parole ineligibility stems from Tex. Gov't Code § 508.145(a), not a Penal Code sentence of "life without parole."

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[Dana Boehm, Appellant v. The State of Texas, Appellee](#), No. 03-24-00357-CR, [2026 WL 628826](#) (Tex. App. Mar. 6, 2026)

**Evidence was sufficient to support a conviction for animal cruelty where defendant recklessly failed to provide necessary care to an animal, and the trial court properly included recklessness and alternative manner-and-means in the jury charge.**

**Facts:** Dr. Boehm, a veterinarian who operated the Animal Wellness Hospital in Taylor, Texas, boarded a bulldog named Jax for a week while the owners were on vacation. When Jax was dropped off, he was mobile and appeared healthy aside from known spinal and orthopedic issues common in bulldogs. During the boarding period, Dr. Boehm informed the owner that the dog was acting differently and had developed a urinary tract infection. When Jax was picked up, he was unable to walk, appeared lethargic, smelled strongly of urine, and had bandaged hind legs. The owners later observed wounds, abrasions, and skin irritation and took Jax to an emergency veterinary clinic. Emergency veterinarians determined Jax suffered from urine scalding, wounds, infection, and inability to stand. Despite treatment, his condition worsened and the owners

ultimately chose to euthanize him. Law enforcement investigated and the State charged Dr. Boehm with misdemeanor cruelty to a non-livestock animal under Texas Penal Code § 42.092(b)(3) for unreasonably failing to provide necessary care. The State alleged she failed to remove the dog from waste, treat his wounds, and properly administer medications. At trial, the State presented evidence of poor conditions at the clinic, testimony that the dog had been left in urine and waste causing scalding wounds, and expert testimony that the care provided was inadequate. The defense argued that Jax’s deterioration resulted from his pre-existing spinal condition and that Dr. Boehm had provided appropriate care. The jury convicted her.

**Issues:** (1) Was the evidence sufficient to prove Dr. Boehm unreasonably failed to provide necessary care to the animal? (2) Did the trial court err by instructing the jury it could convict based on the administration of contraindicated medication, which Dr. Boehm argued was an act rather than an omission, and therefore outside the statute? (3) Did the jury charge improperly allow conviction based on a reckless mental state, which Dr. Boehm argued did not apply to the offense?

**Holding:** The Third Court of Appeals affirmed the conviction. The court held that circumstantial evidence allowed a rational jury to find beyond a reasonable doubt that Dr. Boehm recklessly and unreasonably failed to provide necessary care, particularly by failing to keep the dog clean and free from urine and waste. The evidence showed the dog arrived healthy but left unable to walk, wounds consistent with prolonged exposure to urine, and testimony that animals at the clinic were often kept in dirty kennels. The court held that acts of inadequate care can fall within the statutory definition of failing to provide necessary care, so instructing the jury on the theory that administering contraindicated medication constituted inadequate care was not error. Because the statute expressly allows liability when a person “intentionally, knowingly, or recklessly” fails to provide necessary care, the trial court correctly included recklessness in the jury charge. Affirmed.

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ZACHARY JABE RILEY, Appellant, v. THE STATE OF TEXAS, Appellee., No. 13-23-00359-CR, 2026 WL 740012 (Tex. App. Mar. 16, 2026)

**Accessing another’s voicemail without consent can constitute unlawful interception; statute is not vague, and sufficient evidence supports conviction.**

**Facts:** Riley was charged with two counts of unlawful interception of electronic or oral communications after accessing his ex-wife’s voice mail without her consent. Riley was charged with two counts of unlawful interception of electronic or oral communications. After their divorce, the complainant changed phones and accounts but retained the same voicemail passcode, which Riley knew. She began receiving voicemails from dating services, and Riley sent text messages referencing those voicemails—despite not being told about them. A recorded phone call captured Riley admitting he had checked her voicemails and knew her passcode. The complainant testified she never gave consent. After the first trial ended in a hung jury, the second jury with a different trial judge convicted Riley on both counts, and the trial court imposed probated sentences.

**Issues:** (1) Did the appointment of Attorney General prosecutors as district attorney pro tem violate separation of powers and deprive the trial court of jurisdiction? (2) Is Penal Code § 16.02

(unlawful interception) is unconstitutionally vague? (3) Did the trial court violate Article 38.05 by commenting on the evidence? (4) Was the evidence legally sufficient to prove unlawful interception? (5) Did the trial court err in quashing subpoenas and denying due process at the motion for new trial?

**Holding:** Affirmed. The 13<sup>th</sup> Court of Appeals held that Appointment of the Attorney General as pro tem prosecutor was lawful and did not violate separation of powers. The elected district attorney recused and consented to appointment of the Attorney General as pro tem, who then acted under the DA's authority—not independently—making the prosecution constitutional. Penal Code § 16.02 is not unconstitutionally vague. The statute, read with incorporated definitions, gives sufficient notice of prohibited conduct and does not permit arbitrary enforcement. The evidence was sufficient to support the conviction. Voicemails qualify as oral/electronic communications. Riley's phone constituted an interception device, and no statutory exception applied. The evidence (texts, testimony, and admission) showed intentional, nonconsensual access, supporting the conviction. As to the improper comment by the judge, the record did not show the complained-of judicial comment occurred in the second trial therefore no violation was established. The trial court did not err in quashing subpoenas as Riley failed to show that the requested evidence (cell phone records) was material rather than speculative. No abuse of discretion in quashing subpoena or denying new trial.

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[JODANIEL REYNA, Appellant, v. THE STATE OF TEXAS, Appellee.](#), No. 13-24-00207-CR, 2026 WL 842977 (Tex. App. Mar. 26, 2026)

**Exclusion of officer's prior misconduct upheld; failure to preserve evidentiary theories and incomplete appellate record defeated new-trial claims; curative instruction neutralized improper closing argument.**

**Facts:** Police responded to a disturbance at a convenience store where Reyna and his brother had damaged the store's door. When Lieutenant Saldana arrived, a physical altercation ensued between the officer and the two brothers. During the struggle, Reyna attempted to grab the officer's firearm and struck him multiple times with a flashlight, causing head injuries. Reyna was charged with aggravated assault of a public servant and attempted capital murder of a peace officer. The jury deadlocked on the attempted capital murder charge (resulting in mistrial on that count) but convicted Reyna of aggravated assault. The trial court sentenced him to 28 years. At trial, Reyna sought to introduce disciplinary records from 2010 showing prior misconduct by the officer to support a theory that the officer was the aggressor. The trial court excluded the evidence. Reyna also moved for new trial, alleging jury misconduct and improper prosecutorial argument (including a comment referencing "people coming across the border"). The motion was denied.

**Issues:** (1) Did the trial court abuse its discretion by excluding evidence of the officer's prior disciplinary misconduct under the Rules of Evidence and constitutional grounds? (2) Did the trial court err in denying a new trial based on alleged jury misconduct and improper, inflammatory closing argument?

**Holding:** The 13<sup>th</sup> Court of Appeals affirmed the conviction. The trial court did not abuse its discretion in excluding the officer's prior disciplinary records. Reyna failed to preserve many

evidentiary arguments (including Confrontation Clause and certain evidentiary rules) because they were not specifically raised at trial. The evidence was not admissible under Rule 405(b) because the victim's character is not an essential element of self-defense. The trial court properly denied the motion for new trial; Reyna failed to provide a complete appellate record, and the record supported the ruling. The prosecutor's improper comment was cured by the trial court's instruction to disregard and did not render the trial fundamentally unfair. Affirmed.

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## **-Federal Preemption**

[Clay A. ROBERTS, Appellant v. The STATE of Texas, Appellee](#), No. 04-24-00485-CR, [2026 WL 290378](#) (Tex. App. Feb. 4, 2026)

**Texas's anti-smuggling statute does not violate the First Amendment and is not preempted by federal immigration law because it criminalizes concealment of persons, not immigration status.**

**Facts:** Roberts was stopped by a Texas Department of Public Safety trooper in Val Verde County for a traffic violation. Roberts was driving a vehicle on a road known for smuggling activity after passing a Border Patrol checkpoint. When stopped, four passengers exited the vehicle; one fled, and three remained. The passengers appeared dirty and covered with brush, suggesting concealment. Border Patrol agents later determined the passengers were unlawfully present in the United States. Roberts refused commands to exit his vehicle and was arrested. Roberts was charged and convicted under Texas Penal Code § 20.05(a)(1)(A), which makes it an offense to transport a person with intent to conceal them from law enforcement. He was sentenced to 42 months' imprisonment. Roberts appealed, arguing the statute violated the First Amendment and was preempted by federal immigration law.

**Issues:** (1) Does Texas Penal Code § 20.05(a)(1)(A) (smuggling of persons) facially violate the First Amendment because it criminalizes conduct based on intent to conceal? (2) Is the statute preempted by federal immigration law under the doctrine of field preemption, because the federal government exclusively regulates alien smuggling? (3) Is the statute preempted under conflict preemption because prosecuting Roberts under state law interfered with federal immigration enforcement and prosecutorial discretion?

**Holding:** Affirmed on all issues. The 4<sup>th</sup> Court of Appeals held the statute does not facially violate the First Amendment because it regulates conduct—transporting individuals with intent to conceal—not protected speech or thought. Any unconstitutional applications would be insubstantial compared to the statute's legitimate applications. The court held the statute is not field preempted because it does not require proof of immigration status and does not directly regulate immigration. Instead, it is a neutral criminal law targeting concealment of persons from law enforcement, which falls within the state's traditional police powers. The court also held Roberts's prosecution did not conflict with federal immigration law or interfere with federal enforcement discretion. The state prosecuted Roberts for concealing persons from law enforcement, not for immigration violations, and federal authorities remained free to enforce federal immigration laws independently.

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**-Woods v. State**, No. 05-24-01305-CR, [2026 WL 489004](#) (Tex. App. Feb. 20, 2026)

**Circumstantial evidence—including severe stabbing injuries, attempts to conceal the crime, and flight—supported a murder conviction, and the trial court did not err in refusing lesser-included-offense instructions or admitting autopsy photographs.**

**Facts:** Woods met Iris Franks and brought her to his motel room after arranging to pay her for sex. According to Woods, the two argued over payment and began fighting. During the altercation Woods used a box cutter, slashing Franks’s chest and throat multiple times and striking her repeatedly. Surveillance video from the motel showed Woods carrying Franks’s body from the room about thirty minutes after the pair entered. Woods placed her body in his vehicle, drove away, and later dumped it on a roadway. Police later discovered extensive blood evidence in the motel room and in Woods’s vehicle, along with cleaning attempts using bleach. Medical testimony established that Franks suffered severe sharp-force injuries, including a deep cut across the neck that severed major structures such as the jugular vein, trachea, and esophagus. Woods admitted killing Franks but claimed he acted in self-defense during a struggle. A jury rejected the self-defense claim and convicted Woods of murder, sentencing him to ninety-nine years’ imprisonment.

**Issues:** (1) Was the evidence legally sufficient to prove Woods intentionally or knowingly caused the victim’s death? (2) Did the trial court err by refusing jury instructions on the lesser-included offenses of manslaughter and criminally negligent homicide? (3) Did the trial court abuse its discretion by admitting autopsy photographs that Woods claimed were unfairly prejudicial?

**Holding:** The Fifth Court of Appeals affirmed the conviction. The court concluded that the cumulative circumstantial evidence supported the murder conviction. The severity of the victim’s injuries—including multiple slashing wounds to the throat and chest—supported an inference of intent to kill. Woods’s inconsistent statements, attempts to clean the crime scene with bleach, disposal of the body, and flight from police further demonstrated consciousness of guilt. The trial court properly refused manslaughter and criminally negligent homicide instructions because the record contained no evidence that Woods acted only recklessly or negligently. Woods admitted repeatedly slashing the victim with a box cutter while in control of the weapon, which supported intentional conduct rather than reckless or negligent behavior. The trial court did not abuse its discretion by admitting five autopsy photographs showing the victim’s injuries. The images were relevant to demonstrate the nature and severity of the injuries and to rebut Woods’s self-defense claim. Their probative value was not substantially outweighed by the danger of unfair prejudice.

Cross v. State, No. 11-23-00102-CR, [2026 WL 110396](#) (Tex. App. Jan. 15, 2026)

**Evidence from controlled drug buys and corroborating video recordings supported a methamphetamine delivery conviction; defendant’s entrapment defense failed, his waiver of counsel was valid, and a life sentence as a habitual offender was not unconstitutional.**

**Facts:** Cross was charged with delivery of four grams or more but less than 200 grams of methamphetamine, a first-degree felony. Law enforcement used a confidential informant (V.P.) to conduct controlled drug purchases from Cross. In April 2021, officers searched the informant,

equipped the informant with recording equipment, and provided money to purchase drugs. The informant went to Cross's residence and purchased methamphetamine while officers monitored the transaction through a live video feed. The drugs were later tested and confirmed to be methamphetamine weighing approximately 5.83 grams. Evidence at trial also included a video of an earlier controlled purchase from Cross. Cross testified that he was a drug addict who merely helped another addict obtain drugs and denied being a drug dealer. The jury rejected his entrapment defense and convicted him. At punishment, the State proved four prior felony convictions (including aggravated robbery, sexual assault, delivery of a controlled substance, and retaliation). The jury found the enhancement allegations true and assessed life imprisonment as a habitual offender.

**Issues:** (1) Was the evidence legally sufficient to support the conviction, including whether the State disproved Cross's entrapment defense beyond a reasonable doubt? (2) Was there sufficient corroborating evidence, independent of the confidential informant's testimony, connecting Cross to the offense? (3) Did Cross knowingly and voluntarily waive his right to counsel and validly chose to represent himself at trial? (4) Did Cross's life sentence constitute cruel and unusual punishment in violation of the Eighth Amendment?

**Holding:** The Eleventh Court of Appeals affirmed the conviction and life sentence. The court held that the informant merely provided Cross an opportunity to commit the offense rather than inducing him through persuasive or coercive tactics likely to cause an ordinarily law-abiding person to commit the crime. Evidence showed Cross arranged for the drugs to be delivered, provided them to the informant, and kept some for himself. The jury's guilty verdict implicitly rejected the entrapment defense. Independent evidence—including officer testimony, video recordings of the transaction, and physical drug evidence—tended to connect Cross to the offense and sufficiently corroborated the informant's testimony under Texas Code of Criminal Procedure Article 38.141. The trial court repeatedly warned Cross about the dangers of self-representation, provided oral and written admonishments, and allowed standby counsel to remain available. Considering Cross's education, prior trial experience, and signed waiver, the court concluded his decision to proceed pro se was knowing, voluntary, and intelligent. Cross failed to preserve the Eighth Amendment complaint and inadequately briefed the issue. Even if considered, the life sentence was within the statutory range and not grossly disproportionate given the seriousness of the offense and Cross's extensive criminal history. Affirmed.

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## **-Fines**

[Virovatz v. State](#), No. 01-24-00334-CR, [2026 WL 388221](#) (Tex. App. Feb. 12, 2026)

### ***Mandatory DWI fine is constitutional***

**Facts:** Virovatz was charged with class B misdemeanor driving while intoxicated and entered a plea of nolo contendere pursuant to a plea agreement for three days in jail. In addition to the jail sentence and license suspension, the trial court imposed a mandatory \$3,000 fine under Texas Transportation Code § 709.001, which requires an additional fine for DWI convictions. Virovatz objected to the fine, arguing that the statute was unconstitutional because it violated separation of

powers, was vague, and improperly limited judicial and prosecutorial discretion. The trial court overruled his objections and imposed the fine, and Virovatz appealed.

**Issues:** (1) Does Texas Transportation Code § 709.001, which imposes a mandatory fine for DWI convictions, violate the separation-of-powers clause of the Texas Constitution? (2) Is § 709.001 unconstitutionally vague because it does not specify when or how the mandatory fine must be paid?

**Holding:** Affirmed. The 1<sup>st</sup> Court of Appeals held that § 709.001 is constitutional. The mandatory fine does not violate separation of powers because the legislature has exclusive authority to define crimes and prescribe punishments, and the statute is not unconstitutionally vague because it clearly establishes the fine and trial courts retain discretion over the manner and timing of payment. The court affirmed the conviction and sentence.

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## **-Jurisdiction**

[The State of Texas, Appellant v. Julio Enrique Vega, Appellee](#), No. 08-24-00161-CR, [2026 WL 473842](#) (Tex. App. Feb. 18, 2026)

**District court's transfer order failed to sufficiently identify Defendants' cases therefore the misdemeanor indictment was never properly transferred to the county court, the county court lacked jurisdiction, and dismissal of the prosecutions was proper.**

**Facts:** A grand jury empaneled in an El Paso County district court returned an indictment charging Vega and 58 other defendants in 59 separate cases with the Class B misdemeanor offense of participating in a riot. Because district courts lack jurisdiction to try misdemeanor cases, the cases were supposed to be transferred to a county court at law with jurisdiction over misdemeanor offenses. The county clerk received three documents in each case: the indictment, a district court transfer order purporting to transfer multiple misdemeanor cases, and a “true-bill list” identifying cases returned by the grand jury. The county court determined that the transfer order did not contain sufficient identifying information—such as a cause number or district-court file number—to show that each defendant’s case was one of the cases ordered transferred. The county court therefore concluded that its jurisdiction had never been properly invoked and dismissed the cases. The State appealed, arguing that the documents together effectively transferred the cases or, alternatively, that any defect in the transfer process was merely procedural rather than jurisdictional. The defendants also sought sanctions against the State, alleging misconduct in the handling of the appellate record.

**Issues:** (1) Were the 59 indictments charging the 59 defendants with misdemeanor riot participation properly transferred from the district court to the county court, thereby invoking the county court’s jurisdiction? (2) Did any defect in the transfer documentation constitute a jurisdictional failure (requiring dismissal) or merely a procedural irregularity? (3) Were the defendants entitled to sanctions against the State or prosecutors based on alleged misconduct relating to the record and appellate proceedings?

**Holding:** The 8<sup>th</sup> Court of Appeals held that the State failed to demonstrate that the 59 separate cases were properly transferred from the district court to the county court, because the transfer

order did not adequately identify the individual case and therefore did not invoke the county court's jurisdiction. As a result, the county court correctly dismissed the indictment. The appellate court also denied the defendants' requests for sanctions against the State.

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LATOYA SKORICH, APPELLANT v. THE STATE OF TEXAS, APPELLEE JOHN WOODY, APPELLANT, No. 07-25-00001-CR, 2026 WL 872251 (Tex. App. Mar. 30, 2026)

***The evidence was legally sufficient on all challenged elements, and the trial court properly exercised jurisdiction and venue.***

**Facts:** A seven-year-old child (A.T.) was brought to a Hereford, Texas emergency room in a near-comatose state, suffering from extreme dehydration, dangerously elevated sodium levels, and extensive bruising over his body. Medical experts testified the dehydration was chronic and could not have occurred without prolonged deprivation of fluids. A.T.'s mother, Latoya Skorich, and her boyfriend, John Woody, had been traveling with him for days in an 18-wheeler, restricting his fluid intake and delaying medical care despite obvious signs of deterioration. Evidence showed A.T. became progressively lethargic, eventually unresponsive, while traveling through Texas. The child also had numerous injuries in various stages of healing, consistent with repeated physical abuse, including discipline with a belt. Both defendants offered inconsistent explanations for the injuries. A jury convicted both defendants of injury to a child causing serious bodily injury and bodily injury. Woody received concurrent sentences of 30 years and 10 years imprisonment with a \$10,000 fine. Skorich received concurrent sentences of 20 years and 10 years imprisonment with a \$10,000 fine. The appeals were consolidated.

**Issues:** (1) Did Texas courts have territorial jurisdiction over the offenses? (2) Was venue proper in Deaf Smith County? Was the evidence sufficient to show that (a) Woody owed a legal duty to the child (care, custody, or control), and (b) Skorich knowingly or recklessly caused injury by omission (failure to provide care, protection, and medical treatment)?

**Holding:** The 7<sup>th</sup> Court of Appeals affirmed the convictions. The court held that Texas had territorial jurisdiction because the child's condition deteriorated and the resulting injury occurred, at least in part, within Texas. Venue in Deaf Smith County was proper because the injury manifested there and the defendants were extradited there. Sufficient evidence showed Woody assumed care, custody, and control of the child through his role as a parental figure, disciplinarian, and provider. Sufficient evidence supported that Skorich knowingly or recklessly caused injury by failing to provide adequate nutrition, hydration, medical care, and protection from abuse. Affirmed.

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## **-Jurors**

REYES SALAZAR, Appellant, v. THE STATE OF TEXAS, Appellee., No. 13-24-00024-CR, 2025 WL 3545566 (Tex. App. Dec. 11, 2025)

**Although trial court improperly allowed alternate jurors to replace regular jurors without the required findings, the error was harmless and juror testimony was barred by Rule 606(b)-convictions affirmed.**

**Facts:** Salazar was tried for continuous sexual abuse of a child and aggravated sexual assault of a child. Twelve regular jurors and two alternates were selected, but the jurors were not informed who was an alternate. When the jury retired to deliberate, two alternate jurors were mistakenly allowed to deliberate in place of two regular jurors, who were excused without any finding that they were disabled or disqualified. The error was discovered during deliberations, but the trial court allowed the alternates to continue deliberating and overruled Salazar's objections. The jury convicted Salazar and assessed life sentences. Salazar moved for a new trial, alleging juror misconduct and outside influence, which the trial court denied.

**Issues:** (1) Did replacing two regular jurors with alternate jurors without the findings required by Code of Criminal Procedure article 33.011 violate Salazar's constitutional right to a twelve-person jury? (2) Did the participation of alternate jurors and the presence of excused jurors during deliberations constitute harmful "outside influence" in violation of Code of Criminal Procedure article 36.22? (3) Did the trial court err in denying Salazar's motion for new trial and refusing to admit juror testimony regarding alleged misconduct under Texas Rule of Evidence 606(b)?

**Holding:** No on all issues. Affirmed. The 13<sup>th</sup> Court of Appeals held that although the trial court erred by allowing alternate jurors to replace regular jurors without the findings required by article 33.011, the error did not violate Salazar's constitutional right to a twelve-person jury and did not affect his substantial rights because the alternates were properly qualified and no outside information influenced the verdict; the court further held that any article 36.22 violation was harmless and that juror testimony regarding deliberations was barred by Rule 606(b), and therefore affirmed the convictions.

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[Johnson v. State](#), No. 02-25-00142-CR, [2025 WL 3559030](#) (Tex. App. Dec. 11, 2025)

**Trial court properly adjudicated guilt after jury waiver and guilty pleas, but modified the bills of costs to remove improperly included fines and costs**

**Facts:** Johnson was indicted in Denton County for two counts of aggravated sexual assault of a child (1993) and three counts of aggravated sexual assault (1997) arising from two separate attacks at North Lakes Park. DNA evidence from both assaults matched, but the perpetrator remained unidentified for decades. In 2023, familial DNA testing identified Johnson, and DNA recovered from a discarded bottle he used confirmed the match. On the morning of trial, Johnson pleaded guilty to all five counts, waived a jury trial on guilt, and requested a jury to assess punishment. The trial court accepted his pleas, found him guilty, and a jury assessed punishment at life imprisonment and a \$10,000 fine on each count, with sentences ordered to run concurrently.

**Issues:** Did the trial court err by sentencing Johnson without a jury finding of guilt? (2) Did the trial court err by including multiple \$10,000 fines in the judgments despite concurrent sentences and improperly including fines in the bill of costs?

**Holding:** The Second Court of Appeals affirmed the convictions and sentences, holding that Johnson's valid waiver of a jury trial on guilt and guilty pleas authorized the trial court to adjudicate guilt without a jury verdict, and that the jury properly assessed punishment. The court modified the bills of costs to remove improperly included fines, delete premature time-payment fees, and clarify that court costs are not due until Johnson's release from confinement. Affirmed as modified.

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## **-Jury Charge**

KEVIN WILLIAMS BACON, Appellant v. THE STATE OF TEXAS, Appellee, No. 14-23-00939-CR, 2026 WL 363516 (Tex. App. Feb. 10, 2026)

**DWI conviction reversed where jury charge improperly included intoxication theories unsupported by the evidence, creating egregious harm by allowing conviction based on an unproven intoxicant.**

**Facts:** Bacon was stopped by police after speeding and making unsafe lane changes. The officer observed signs of intoxication, including slurred speech, glassy eyes, and empty alcohol containers in the vehicle. Bacon admitted consuming alcohol, failed field sobriety tests, and later provided a blood sample showing a blood alcohol concentration of 0.162. During an inventory search of the vehicle, the officer found a grinder containing a substance he believed to be synthetic marijuana, though it was never tested and no evidence showed Bacon had ingested it. At trial, the State presented evidence of intoxication primarily through alcohol consumption but also introduced testimony and video referencing the suspected synthetic marijuana. The jury was instructed using the full statutory definition of intoxication, which included intoxication by alcohol, drugs, controlled substances, or any combination thereof. The jury convicted Bacon of DWI.

**Issues:** (1) Did the trial court err by admitting evidence of suspected synthetic marijuana found during the vehicle inventory search? (2) Was the jury charge erroneous by including the full statutory definition of "intoxicated," including intoxication by drugs or controlled substances, when the evidence supported intoxication by alcohol only? (3) Did any jury charge error cause egregious harm requiring reversal?

**Holding:** Reversed. The 14<sup>th</sup> Court of Appeals held that although the evidence regarding suspected synthetic marijuana was properly admitted as same-transaction contextual evidence, the trial court erred by including the full statutory definition of intoxication in the jury charge when the evidence supported intoxication by alcohol only. This error caused egregious harm because it allowed the jury to convict based on a theory unsupported by the evidence. The court reversed the conviction and remanded for further proceedings.

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Johnson v. State, No. 05-24-01019-CR, 2026 WL 508801 (Tex. App. Feb. 23, 2026)

**The State need only prove that a defendant knowingly possessed a controlled substance—not that he knew its precise chemical identity—and inclusion of “all possible doubt” language without a “clear and convincing evidence” comparison does not constitute jury-charge error.**

**Facts:** Johnson was convicted by a jury of possession with intent to deliver fentanyl (4–200 grams), a first-degree felony under Texas Health & Safety Code § 481.1123. Police responded to a disturbance call at a gas station. Officers observed Johnson acting confused and possibly intoxicated. Upon contact, officers smelled marijuana. A handgun and a white envelope containing 60 blue “M30” pills were found in the vehicle. The pills weighed 6.54 grams and tested positive for fentanyl. Johnson had \$7,780 in cash on his person. Johnson argued the pills may have been placed in the vehicle by someone else and they belonged to “Mike.” Johnson said he believed the pills were oxycodone, which he had been prescribed after a car accident. The State introduced rebuttal evidence that Johnson had previously sold pills resembling Percocet (“yerks”). Pills sold on the street often contain fentanyl but are disguised as oxycodone. A prior buyer died from a fentanyl overdose after purchasing pills from Johnson. The jury convicted Johnson and assessed 30 years’ confinement.

**Issues:** (1) Did the trial court err by refusing to instruct the jury that it had to find Johnson knew the pills were specifically fentanyl (not merely a controlled substance)? (2) Did the trial court err by including language that the State need not prove guilt beyond “all possible doubt,” and by refusing to instruct the jury that reasonable doubt requires proof exceeding “clear and convincing evidence.”?

**Holding:** Conviction affirmed. The 5<sup>th</sup> Court of Appeals held that the statute requires proof that the defendant knowingly possessed a controlled substance, not that he knew the precise chemical identity. The State must prove knowledge that the substance was contraband, not knowledge of its exact name or penalty group. Texas case law does not require proof that a defendant knew the specific drug listed in the indictment. Mistaken belief that the drug was a different illegal substance (e.g., oxycodone instead of fentanyl) does not negate culpability. The court declined to increase the State’s burden by requiring proof that the defendant knew the specific drug. As to the “all possible doubt” issue the court held that the prosecution is not required to prove guilt beyond all possible doubt but must exclude all reasonable doubt. Texas precedent expressly approves inclusion of the “all possible doubt” language. Courts have rejected arguments that failure to include “clear and convincing evidence” language constitutes error. Under *Paulson v. State*, courts generally should avoid defining reasonable doubt. The jury was correctly instructed on the State’s burden. No jury-charge error. The court noticed the judgment labeled the offense as a “HYBRID FELONY.” Because the conviction was for a first-degree felony, the court modified the judgment to reflect “FIRST-DEGREE FELONY. Affirmed as modified.

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[Aguirre v. State](#), No. 14-25-00214-CR, [2026 WL 468009](#) (Tex. App. Feb. 19, 2026)

**Trial judge’s voir dire statement suggesting that proof beyond a reasonable doubt could be satisfied by roughly “60 percent” certainty improperly lowered the State’s burden of proof, requiring reversal of the murder conviction and remand for a new trial**

**Facts:** Aguirre was convicted of murder and sentenced to fifty years' imprisonment for fatally shooting a man who had just scammed him in a parking-lot scheme. The victim approached Aguirre and his girlfriend while posing as a parking attendant and collected \$20 from each vehicle. Shortly thereafter, another person informed Aguirre that the victim was a scammer. Surveillance footage showed Aguirre running to his car, retrieving an object resembling a handgun, and pursuing the victim, who was leaving on a bicycle. Less than a minute later Aguirre returned to the area. The victim was later found nearby with a fatal gunshot wound. No eyewitness saw the shooting and no murder weapon was recovered. The State relied on circumstantial evidence, including Aguirre's motive after being scammed, surveillance footage showing him running with a gun toward the complainant, and testimony that Aguirre later told his girlfriend to deny she was the person seen with him in surveillance footage. The jury convicted Aguirre of murder. During voir dire, the trial judge told prospective jurors that "one person's beyond a reasonable doubt is 99 percent and another person's beyond a reasonable doubt is 60 percent or a gut feeling." Aguirre did not object to the comment at trial but argued on appeal that the statement improperly reduced the State's burden of proof.

**Issues:** (1) Was the circumstantial evidence legally sufficient to prove that Aguirre was the person who murdered the victim? (2) Did Aguirre forfeit his complaint about the trial judge's voir dire comment by failing to object at trial? (3) Did the judge's statement suggesting that proof beyond a reasonable doubt could be satisfied by about "60 percent" certainty improperly lower the State's burden of proof? (4) If the comment was improper, does the error required reversal.

**Holding:** Reversed. The 14<sup>th</sup> Court of Appeals held that the evidence was legally sufficient to support Aguirre's conviction, but the trial judge's voir dire statement suggesting that reasonable doubt could correspond to "60 percent" certainty improperly reduced the State's burden of proof. The court further held that Aguirre did not forfeit the complaint because the right to be free from judicial comments that lessen the burden of proof is a waivable-only right. Because the State failed to show beyond a reasonable doubt that the error did not contribute to the conviction, the court reversed the judgment and remanded the case for a new trial.

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[Robinson v. State](#), No. 01-24-00855-CR, [2026 WL 471754](#) (Tex. App. Feb. 19, 2026)

**Defendant charged with online solicitation of a minor was not entitled to a "within-three-years" age-difference jury instruction where he believed the person solicited was a 15-year-old, making it impossible that he believed he was within three years of the minor's age.**

**Facts:** Robinson, age 38, began communicating online with a person using the name "Abby," whom he believed to be a 15-year-old girl. Over approximately five months, Robinson exchanged messages, texts, and phone calls with "Abby," during which he described sexual acts he wanted to perform with her, asked her to meet him for sex, and sent photographs of his erect penis. Robinson eventually arranged to meet "Abby," promising to bring alcohol and booking a

hotel room for the encounter. When he arrived at the agreed meeting location with alcohol, condoms, and an overnight bag, law enforcement officers arrested him. “Abby” was actually an undercover investigator working with an Internet Crimes Against Children task force. Robinson was charged with online solicitation of a minor under Texas Penal Code § 33.021 and was convicted by a jury. The trial court sentenced him to six years’ imprisonment. At trial, Robinson requested a jury instruction on the statutory “within-three-years” age defense, arguing that the undercover officer’s real age was within three years of his own. The trial court denied the requested instruction.

**Issues:** (1) Did the trial court err by refusing to include a jury instruction on the “within-three-years” statutory age defense under Texas Penal Code § 33.021(e) in Robinson’s prosecution for online solicitation of a minor? (2) Did the evidence presented at trial raise that statutory defense, which requires proof that the defendant believed he was not more than three years older than the minor and that the minor consented to the conduct?

**Holding:** The First Court of Appeals held that the trial court properly denied Robinson’s requested jury instruction on the “within-three-years” defense because the evidence did not raise the defense. Robinson believed he was communicating with a 15-year-old minor, while he was 38 years old, and there was no evidence that he believed he was within three years of the minor’s age. The fact that the undercover officer’s actual age happened to fall within three years of Robinson’s age was legally irrelevant because the statute focuses on the defendant’s belief about the minor’s age at the time of solicitation. Accordingly, the court affirmed Robinson’s conviction for online solicitation of a minor.

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## **-Jury Trial**

Hall v. State, No. 11-24-00016-CR, [2026 WL 246987](#) (Tex. App. Jan. 30, 2026)

**Defendant properly waived right to jury trial- withdrawal from plea agreement does not automatically revoke jury trial waiver**

**Facts:** Hall was charged with murder after she shot and killed her soon-to-be ex-husband during an argument at her home. Before trial, Hall negotiated a plea agreement and, in open court, signed and affirmed a written waiver of her right to a jury trial, acknowledging that the waiver was irrevocable unless the court rejected the plea agreement. Before entering the plea, Hall withdrew from the plea agreement, fired her attorneys, and the case was reset for a bench trial. Hall never requested reinstatement of her right to a jury trial and later agreed with new counsel that a bench trial was in her best interest. After a bench trial, the court convicted Hall of murder and sentenced her to thirty years’ confinement. On appeal, Hall argued that her jury-trial waiver was not voluntary, knowing, or intelligent, and that withdrawing from the plea agreement nullified the waiver.

**Issues:** (1) Did Hall expressly, voluntarily, knowingly, and intelligently waive her Sixth Amendment right to a jury trial? (2) Did Hall's withdrawal from the plea agreement automatically revoke or invalidate her jury-trial waiver?

**Holding:** The Eleventh Court of Appeals affirmed the conviction. The record showed that Hall expressly and knowingly waived her right to a jury trial in open court after being admonished by the trial judge, and nothing indicated coercion or misunderstanding. Withdrawing from a plea agreement does not automatically revoke a jury-trial waiver, and Hall never requested reinstatement of her right to a jury trial. Because Hall proceeded to a bench trial without objection and later confirmed that she preferred a bench trial, the trial court did not err in conducting a non-jury trial. Conviction affirmed.

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## **-Jury Unanimity**

[WILLIAM GEORGE DAVIS, Appellant v. THE STATE OF TEXAS](#), No. AP-77,106, [2026 WL 692433](#) (Tex. Crim. App. Mar. 12, 2026)

**Jury was not required to unanimously agree on which additional victim satisfied the aggravating element of capital murder.**

**Facts:** Davis was a cardiovascular intensive care unit (CVICU) nurse at Christus Mother Frances Hospital in Tyler, Texas. Between January 2017 and January 2018, several post-operative heart patients unexpectedly suffered severe strokes while recovering in the CVICU. Medical investigation eventually revealed that the victims' brain injuries were caused by arterial air embolisms, meaning air had been intentionally injected into their arterial lines. Each patient had an arterial catheter used for monitoring vital signs. Evidence at trial showed that Davis's shifts coincided with every patient's sudden medical collapse and that he had been present in or near the victims' rooms immediately before the incidents. Surveillance footage, witness testimony, and medical evidence linked him to the events. The State proved that Davis intentionally caused the deaths of four patients. Two additional patients were seriously injured in similar incidents. Evidence also suggested Davis had harmed other patients during the same period. A Smith County jury convicted Davis of capital murder under Texas Penal Code §19.03(a)(7)(B) for murdering more than one person during different transactions but pursuant to the same scheme or course of conduct. The jury answered the capital sentencing special issues in favor of the State, and the trial court sentenced Davis to death. Davis appealed directly to the Texas Court of Criminal Appeals raising thirteen points of error.

**Issues:** (1) Did the jury have to unanimously agree on which additional victim satisfied the aggravating element of capital murder? (2) Did the trial court improperly limit defense questioning of prospective jurors regarding mitigation and other topics? (3) Did the trial court improperly admit evidence that Davis harmed additional patients not named in the indictment? (4) Should the jury have been instructed on manslaughter or criminally negligent homicide regarding one victim? (5) Did the State improperly attack defense counsel during closing argument? (6) Did the State improperly introduce jail phone calls and testimony highlighting

Davis's failure to testify? (7) Are Texas capital sentencing statutes and jury instructions unconstitutional?

**Holding:** The Texas Court of Criminal Appeals affirmed the conviction and death sentence, holding that none of Davis's complaints showed reversible error. The jury was not required to unanimously agree on which additional victim satisfied the aggravating element of capital murder. The statute defines a single offense involving multiple murders pursuant to the same scheme, so jurors only had to unanimously agree that at least one additional murder occurred. The trial court did not abuse its discretion in limiting certain defense voir dire questions because they were improper commitment questions or involved specific mitigating facts. Evidence that Davis harmed additional patients was admissible because it showed absence of accident and supported the State's theory that the strokes were intentionally caused, not random medical complications. The defendant was not entitled to additional lesser-included offense instructions because they were not properly requested and were unsupported by the evidence. Even if some prosecutorial comments criticizing the defense were improper, they were harmless and did not affect the verdict. Claims regarding jail phone calls and testimony were not preserved for appellate review because the objections at trial were based on different constitutional grounds. The Court rejected challenges to the Texas death penalty scheme and jury instructions, reaffirming prior precedent upholding those provisions. Affirmed in all respects.

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## **-Motion for New Trial**

[Thomson v. State](#), No. PD-0507-22, [2025 WL 3545785](#) (Tex. Crim. App. Dec. 10, 2025)

***Appellate court did not have authority to abate appeal order trial court to hear untimely motion for new trial***

**Facts:** Thomson was convicted by a jury of ten counts of possession of child pornography. After conviction, the State discovered and disclosed impeachment evidence relating to the arresting officer, which had not been available at trial. This disclosure occurred after Thomson's 30-day deadline to file a motion for new trial had passed. Despite this, Thomson filed an untimely motion for new trial based on the new evidence, while the appeal was already pending and after the trial court had lost plenary power over the case. Thomson then sought to have the First Court of Appeals abate the appeal and remand the case to the trial court for a hearing on the motion for new trial. The First Court of Appeals, citing emergency COVID-19 orders and appellate procedure rules, ordered abatement and remanded for a hearing. The trial court held a hearing and denied the motion for new trial. Subsequently, the First Court of Appeals ruled in favor of the State on suppression and sufficiency issues but found the trial court abused its discretion in denying the motion for new trial, and reversed and remanded for a new trial.

**Issue:** Did the appellate court have authority to abate the appeal and order the trial court to hear the untimely motion for new trial?

**Holding:** No. The Texas Court of Criminal Appeals held that the appellate court lacked authority to abate the appeal because the trial court lost jurisdiction and neither the emergency

orders nor appellate procedure rules permitted the creation of jurisdiction where none existed. Accordingly, the Texas Court of Criminal Appeals reversed the First Court of Appeals and remanded the case for proceedings consistent with its opinion, dismissing all other grounds of review as improvidently granted.

## **-Motions to Suppress**

[Aaron Joseph Hrehocik, Appellant v. The State of Texas, Appellee](#), No. 03-25-00126-CR, [2025 WL 3769271](#) (Tex. App. Dec. 31, 2025)

***Trial court properly denied suppression because the complainant had a greater possessory right to the cellphone***

**Facts:** Hrehocik lived with his girlfriend, Nezat, and her young son. Nezat reported that Hrehocik repeatedly assaulted her and abused her child, including choking Nezat and taping the child's hands to a desk, incidents that were captured on videos stored on a cellphone Nezat was using. After police viewed and copied the videos from the phone, Hrehocik was charged with multiple offenses. He later pleaded guilty to continuous violence against the family after the trial court denied his motion to suppress the video evidence. He was sentenced to 5 years in prison.

**Issues:** (1) Did the trial court error in admitting the videos obtained from the cellphone? (2) Did Nezat commit theft or breach of computer security by accessing the cellphone and showing the videos to police, such that the evidence was obtained unlawfully?

**Holding:** No as to both issues. Affirmed. The Third Court of Appeals held that the trial court did not abuse its discretion in denying the motion to suppress because the trial court could reasonably conclude that Nezat had the greater possessory right to the cellphone and therefore did not commit theft or breach of computer security; accordingly, the evidence was not obtained unlawfully and was admissible.

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[COREY WAYNE GRIFFIN, Appellant v. THE STATE OF TEXAS, Appellee](#), No. 05-24-00987-CR, [2025 WL 3619439](#) (Tex. App. Dec. 12, 2025)

***Cell-phone warrant supported by probable cause; victim's prior statements were admissible under forfeiture by wrongdoing, and the admission of prior-injury photographs was either unpreserved or harmless.***

**Facts:** Griffin was indicted for murdering his wife, Chelsie Griffin, but the State abandoned the murder charge and proceeded on aggravated assault family violence causing serious bodily injury with a deadly weapon. Evidence showed a long history of domestic violence, a pending divorce and protective order, and escalating threats. On February 16, 2023, Corey waited at the marital home, brutally assaulted Chelsie, strangled her, and shot her, leaving her dead. He fled but was later found with her car, purse, and the murder weapon. The jury convicted Griffin and he was sentenced to life in prison.

**Issues:** (1) Did the trial court err by denying suppression of cell-site and customer data due to lack of probable cause? (2) Did the trial court improperly admit the victim’s hearsay statements under the forfeiture-by-wrongdoing doctrine without sufficient proof of intent to prevent testimony? (3) Were photographs of the victim’s prior injuries improperly admitted due to lack of authentication and personal knowledge?

**Holding:** Conviction affirmed. The Fifth Court of Appeals affirmed the conviction, holding that (1) the cell-phone warrant was supported by probable cause and error was not preserved, (2) the victim’s statements were properly admitted under forfeiture by wrongdoing based on evidence that Griffin killed her in part to prevent further reporting and testimony, and (3) any challenge to the photographs was unpreserved and, alternatively, harmless.

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[State v. Gonzalez](#), No. 13-25-00309-CR, [2026 WL 59717](#) (Tex. App. Jan. 8, 2026)

***School resource officer has no reasonable expectation of privacy in statements made while searching a public-school classroom, so a student’s audio recording did not violate the Texas Wiretap Statute and should not have been suppressed.***

**Facts:** Gonzalez was a school resource officer at a Corpus Christi middle school. While conducting a classroom search with a vice principal for a suspected vape pen, a student inadvertently left a cellphone recording audio in the classroom. The recording captured Gonzalez and the administrator discussing placing the vape pen into a student’s backpack without evidence of ownership. The recording was later turned over to law enforcement, leading to Gonzalez being charged with official oppression. Gonzalez moved to suppress the audio recording, arguing it was illegally obtained without consent in violation of the Texas Wiretap Statute and his constitutional rights. The trial court granted the motion to suppress, and the State filed an interlocutory appeal.

**Issues:** (1) Did Gonzalez have a reasonable expectation of privacy in statements made while searching a public-school classroom in his capacity as a law enforcement officer? (2) Did the student’s recording violate the Texas Wiretap Statute such that the audio must be suppressed under Article 38.23 of the Texas Code of Criminal Procedure?

**Holding:** Reversed. The 13<sup>th</sup> Court of Appeals held that Gonzalez had no objectively reasonable expectation of privacy while performing official duties in a public-school classroom. Because the conversation was not an “oral communication” protected by the Texas Wiretap Statute, the student’s recording did not violate the law. The trial court therefore erred in suppressing the recording. The court reversed the suppression order and remanded with instructions to deny the motion to suppress.

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[CAMERON MOFFETT, Appellant v. THE STATE OF TEXAS, Appellee](#), No. 05-25-00005-CR, [2026 WL 78200](#) (Tex. App. Jan. 9, 2026)

**Incriminating text messages properly admitted because a parent has vicarious or apparent authority to access a minor child's electronic profile to protect the child**

**Facts:** Moffett pled guilty to two counts of Sexual Assault of a Child and one count of Indecency with a Child, with punishment tried to a jury. The jury convicted Moffett on 3 counts and he was sentenced to 20 years on each count to run consecutively. The underlying investigation began when the child's mother discovered suspicious text messages suggesting a sexual relationship between her minor daughter and Moffett, who was the mother's live-in boyfriend or fiancé. The mother accessed her daughter's user profile on Moffett's MacBook laptop—using a password hint—and reviewed synced text messages showing sexual communications between the child and Moffett. She photographed the messages, confronted her daughter (who admitted the abuse), and later provided the photos and phones to police. Moffett moved to suppress the text messages, arguing the mother's access to the laptop was illegal.

**Issues:** (1) Did the mother's access to her daughter's profile and text messages on Moffett's laptop constitute illegal computer access under Texas Penal Code § 33.02? (2) Should the evidence obtained by the mother have been suppressed under Texas Code of Criminal Procedure article 38.23(a) as unlawfully obtained?

**Holding:** No on both issues. The 5<sup>th</sup> Court of Appeals held that the trial court properly denied the motion to suppress because the mother had, at minimum, vicarious or apparent authority to consent to accessing her minor daughter's computer profile and messages for the purpose of protecting her child, and therefore no violation of Penal Code § 33.02 occurred. The convictions and consecutive sentences were affirmed.

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[DESMOND HAWKINS, Appellant v. THE STATE OF TEXAS, Appellee](#), 2026 WL 546342 (Tex.App.-Hous. (14 Dist.), 2026)

**Defendant on bond with an ankle monitor has no reasonable expectation of privacy in GPS data collected pursuant to bond conditions, and GPS data corroborated by surveillance footage was legally sufficient to support a capital murder conviction.**

**Facts:** Hawkins was convicted of capital murder for the shooting death of eleven-year-old D.S., who was killed while sitting in a vehicle with his stepfather, Menuell Solomon. Six days before the murder, Solomon had survived an attempted shooting at his townhome complex. On October 26, 2020, three masked gunmen ambushed Solomon as he arrived home. Solomon was shot and killed in the driver's seat. D.S., seated in the passenger seat, was shot in the head and torso and later died from his injuries. At the time of the offense, Hawkins was on bond for a separate murder charge and was required to wear a GPS ankle monitor as a condition of release. Investigators identified a vehicle linked to Hawkins's associate at the scene, observed a suspect on surveillance video with a bulge at his ankle, compared clothing seen in the video to Hawkins's social media photos and obtained GPS data from Hawkins's ankle monitor via search warrant. The GPS data placed Hawkins in the area before the shooting, at the scene during the ambush, and traveling north toward his home immediately afterward. Hawkins moved to suppress the GPS data, arguing the warrant lacked probable cause and contained false statements.

The trial court denied the motion. A jury convicted him of capital murder under Penal Code § 19.03(a)(9) (victim 10–15 years old), and he was sentenced to life without parole.

**Issues:** (1) Did the trial court err in admitting GPS ankle-monitor data because the warrant lacked probable cause and allegedly contained false statements? (2) Did the trial court err in denying a mistrial after a detective referenced “Ralph gang members,” allegedly violating a motion in limine? (3) Was the evidence legally sufficient to identify Hawkins as one of the shooters and support the capital murder conviction?

**Holding:** The 14<sup>th</sup> Court of Appeals affirmed the judgment in all respects. The court did not reach the probable cause question. Instead, it held that Hawkins lacked standing to challenge the retrieval of GPS data. As a bond condition in a separate case, he was required to wear the ankle monitor and did not challenge that condition. Because he was on notice that his movements were being continuously monitored and that violations could be detected, he had no reasonable expectation of privacy in the single day of GPS data accessed by law enforcement. Sharing the data between law enforcement agencies investigating crimes within the same jurisdiction did not constitute an unreasonable search. As to the mistrial issue the court noted that the detective briefly mentioned an apartment complex associated with “other Ralph gang members,” violating a motion in limine that barred references to gang membership. The trial court sustained the objection, instructed the jury to disregard, and denied the mistrial. Applying the *Archie/Hawkins* three-factor test (severity, curative measures, strength of evidence), the court held that the remark was isolated and not unequivocally tied to Hawkins, the instruction to disregard was presumed effective and the State’s evidence was strong apart from the remark. The trial court did not abuse its discretion in denying a mistrial. As to the sufficiency of the evidence the court held the circumstantial evidence was sufficient because GPS data placed him at the scene during the ambush, surveillance video showed a masked shooter consistent with the GPS location, he was associated with a vehicle tied to the crime, his movements immediately after the shooting were consistent with participation and the nature of the gunshot wounds supported intent. Direct evidence (DNA, fingerprints, eyewitness ID) was not required. Affirmed.

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[State v. Coleman](#), No. PD-0093-25, [2026 WL 237733](#) (Tex. Crim. App. Jan. 29, 2026)

***Cattle ranger who truthfully identifies himself and conducts a consensual interview does not impersonate a public servant, and a defendant cannot obtain suppression under Article 38.23 merely because the ranger lacked statutory authority to investigate the offense.***

**Facts:** A retired Texas Ranger, employed as a “cattle ranger” by a private association, responded to allegations that an adult had exchanged explicit photos with a minor. The cattle ranger, Steven Jeter, interviewed Coleman, who admitted to the conduct. Jeter identified himself as a cattle ranger, wore a badge, and carried a gun, but was not deputized by local law enforcement for this matter. During the voluntary, noncustodial interview, Jeter clarified he was retired from the Texas Rangers and now worked for the Cattle Rangers, stating, “I’m still a police officer.” He obtained statements and Coleman’s phone passcode. Coleman moved to suppress his statements, arguing Jeter unlawfully acted outside his statutory authority and committed impersonation of a public servant. The trial court found Jeter had no authority in this non-livestock matter and granted the

suppression motion, deeming the statement voluntary but based suppression on Jeter's lack of authority. On appeal, the Twelfth Court of Appeals affirmed, holding that Jeter acted outside his statutory mandate and that his conduct amounted to impersonation of a public servant, which provided the defendant standing to challenge admission of his statement under Texas Code of Criminal Procedure Article 38.23.

**Issues:** (1) Did Jeter commit impersonation of a public servant? (2) Did the trial court err in granting the motion to suppress based on Jeter's lack of authority?

**Holding:** The Texas Court of Criminal Appeals reversed. It held that Jeter did not commit impersonation of a public servant because he accurately identified himself as a cattle ranger and did not falsely claim to be another type of public servant. The court further found that, since the interview was a consensual encounter and not an exercise of pretended official authority, suppression was not warranted on these grounds. The judgment of the court of appeals was reversed and the case remanded for further proceedings.

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## **-Right to Counsel (6<sup>th</sup> Amendment)**

[Villarreal v. Texas](#), No. 24-557, [2026 WL 513443](#) (U.S. Feb. 25, 2026)

***A qualified order limiting discussion of a defendant's ongoing testimony during a midtestimony overnight recess does not violate the Sixth Amendment right to counsel.***

**Facts:** During his murder trial, Villareal chose to testify in his own defense, claiming self-defense in the fatal stabbing. Partway through his testimony, the trial was interrupted by a 24-hour overnight recess. Before the break, the trial judge instructed Villareal's attorneys not to "manage" or shape his ongoing testimony during the recess but clarified that Villareal was not barred from speaking with his lawyers about other matters, such as sentencing or trial strategy. After the recess, Villareal resumed testifying and was later convicted of murder. On appeal, the Texas Court of Criminal Appeals reviewed the trial judge's conferral order. The Court of Criminal Appeals found that the order was constitutionally permissible because it only restricted discussions specifically about managing Villareal's ongoing testimony, not all attorney-client consultations. The court emphasized that the order did not prevent Villareal from consulting his attorneys on other protected matters, such as plea negotiations or trial strategy, and was therefore a proper exercise of the trial court's discretion. The United States Supreme Court granted certiorari.

**Issue:** Does a qualified order limiting discussion of a defendant's ongoing testimony during a midtestimony overnight recess violate the Sixth Amendment right to counsel?

**Holding:** No. In a unanimous decision the United States Supreme Court held that such a qualified order is constitutional, so long as it prohibits only discussion of testimony for its own sake and does not prevent consultation on other protected topics, including trial strategy, plea discussions, or evidentiary issues. The Court distinguished this qualified order from a total ban on attorney-client discussions and affirmed that the order properly balanced the defendant's right

to counsel against the integrity of unaltered trial testimony. The judgment of the Texas Court of Criminal Appeals was affirmed.

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## **-Sentencing**

[ERIQUE HOWARD, Appellant v. THE STATE OF TEXAS, Appellee, No. 14-24-00283-CR, 2026 WL 873052](#) (Tex. App. Mar. 31, 2026)

**No judicial vindictiveness/due process violation occurred - the sentence was supported by the record, and unpreserved complaints were waived.**

**Facts:** Howard was charged with two counts of aggravated sexual assault and one count of aggravated robbery. At trial, two victims testified that Howard used a gun to force them to drive to secluded locations, robbed them, and sexually assaulted them. Medical testimony corroborated significant physical injuries consistent with assault. Howard pleaded not guilty and proceeded to a jury trial, which resulted in guilty verdicts on all counts. After the verdict, Howard elected to have the trial court assess punishment. During a post-verdict hearing, the trial court discussed prior plea negotiations and suggested that the parties consider resolving punishment within a certain range. Following a recess, the court sentenced Howard to 50 years' imprisonment, consistent with what appeared to be a post-verdict agreement between the parties. On appeal, Howard argued that the trial court's conduct amounted to judicial vindictiveness, coerced an involuntary sentencing agreement, and failed to ensure voluntariness.

**Issues:** (1) Did the trial court violate due process by vindictively sentencing the defendant for exercising his right to a jury trial? (2) Was the defendant's post-verdict sentencing agreement involuntary? (3) Did the trial court err by failing to inquire into the voluntariness of that agreement?

**Holding:** The 14<sup>th</sup> Court of Appeals affirmed the convictions and sentence. The court held that the record did not show actual judicial vindictiveness. The trial court's comments reflected permissible considerations—such as evidence presented at trial and the loss of plea-bargain leniency—not punishment for exercising trial rights. The trial court properly considered the full evidentiary record, including testimony of multiple victims, in assessing punishment. The defendant failed to preserve complaints regarding voluntariness of the sentencing agreement and the trial court's failure to inquire, so those issues were not reviewed.

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## **-Sexual Assault**

[MARCOS GOMEZ ABAD, Appellant v. THE STATE OF TEXAS, Appellee, No. 14-24-00818-CR, 2025 WL 3759507](#) (Tex. App. Dec. 30, 2025)

**Multiple vaginal penetrations were part of a single continuous act of force or threats during one criminal transaction, not separate offenses therefore jury unanimity not an issue**

**Facts:** In April 2019, the complainant, a 14-year-old girl (referred to as K.M.), was sexually assaulted by Abad, who was her mother's live-in boyfriend at the time. The assault began when Abad stopped the complainant as she was going to bed, touching and kissing her. Later that night, he entered her bedroom, touched her breast and vagina, removed her clothes, forced her to perform oral sex, and penetrated her vagina with his penis. He threatened her that if she told anyone, she and her mother would become homeless and get in trouble. The next morning, after attending the complainant's soccer game with her mother, Abad touched her vagina again over her clothes. The complainant then reported the incident to her mother, who called the police. She was taken to the hospital, where a Sexual Assault Nurse Examiner (SANE) conducted an exam. The complainant told the SANE that Abad penetrated her vagina, then her anus, then her vagina again during the nighttime assault. The SANE observed injuries, including bruises on the labia minora and hymen, and a bleeding laceration on the perineum. DNA evidence matching Abad was found on the complainant's clothing. A jury convicted Abad of sexual assault of a child under Texas Penal Code § 22.011, and the trial court sentenced him to life in prison.

**Issues:** (1) Did the trial court err by failing to instruct the jury that its verdict must be unanimous as to a specific act of penetration, given evidence of multiple vaginal penetrations, potentially allowing a non-unanimous verdict? (2) Did the judgment improperly assess a \$100 Child Abuse Prevention fine and (3) were there errors in the Bill of Costs?

**Holding:** The Fourteenth Court of Appeals affirmed the conviction but modified the judgment and bill of costs. As to jury unanimity the court ruled that there was no error in the jury charge. The court held that the multiple vaginal penetrations were part of a single continuous act of force or threats during one criminal transaction, not separate offenses. Thus, no specific unanimity instruction was required, distinguishing the case from precedents like *Aekins* and *Patterson* where acts were deemed separate. As to Issue #2 the court deleted the \$100 fine (not orally pronounced in the appellant's presence, making it invalid). It modified the judgment to include the statute of conviction (Texas Penal Code § 22.011). It reduced reimbursement fees from \$865 to \$460, finding: (a) warrantless arrest fees supported only \$10 (two arrests), not \$15; (b) commitment/release fees of \$15 were supported (two releases on bond plus one post-conviction transfer to prison); and (c) witness-summoning fees reduced from \$700 to \$300, as only 60 subpoenas (out of 141) were validly served by peace officers under Texas Code of Criminal Procedure art. 24.04 (e.g., excluding unexecuted subpoenas, those served by non-peace officers, and invalid electronic services without acknowledgment). On issue #3, the court modified the bill of costs to delete the \$100 fine, reduce the arrest fee to \$10 and witness-summoning fee to \$300 (consistent with Issue 2), and add a statement that costs are payable only upon release from confinement (no conflict with the judgment, as the bill does not require immediate payment). All other costs (\$290 in court costs) were upheld as supported by the record. Affirmed as modified.

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## **-Speedy Trial**

[Taylor v. State](#), No. 11-24-00117-CR, [2026 WL 110453](#) (Tex. App. Jan. 15, 2026)

**No speedy trial violation under *Barker* factors – evidence sufficient to uphold convictions for injury to disabled person**

**Facts:** Taylor was convicted in three consolidated cases for injury to a disabled individual arising from the death of her sixteen-year-old stepdaughter, L.A. The evidence showed that L.A. lived in Taylor’s home and was subjected to prolonged starvation, physical abuse, isolation, and denial of medical care. When L.A. was taken to the hospital, she was severely emaciated, covered in bruises and wounds in various stages of healing, hypothermic, and unresponsive; she died shortly thereafter. Although an initial autopsy listed the cause of death as an eating disorder, a subsequent review—based on extensive CPS investigations, child outcries, medical records, and photographs—concluded that L.A. died from starvation and that the manner of death was homicide. The jury convicted Taylor of intentionally or knowingly causing bodily injury, criminally negligent bodily injury, and intentionally or knowingly causing serious bodily injury by omission, and assessed sentences ranging from two years to life imprisonment. Taylor appealed, raising speedy-trial, legal-sufficiency, and factual-sufficiency challenges.

**Issues:** (1) Were Taylor’s constitutional right to a speedy trial violated under the *Barker v. Wingo* factors? (2) Was the evidence legally sufficient to support Taylor’s convictions for injury to a disabled individual? (3) Was the evidence factually sufficient to support the convictions and the sentences imposed?

**Holding:** Affirmed. The 11<sup>th</sup> Court of Appeals held that Taylor’s right to a speedy trial was not violated because, although the delay was presumptively prejudicial, much of it was attributable to agreed resets, neutral scheduling issues, and the complexity of the case, and Taylor failed to show sufficient prejudice under the *Barker* factors. The court further held that the evidence was legally and factually sufficient to support all convictions, including proof that L.A. was a disabled individual, that Taylor caused bodily injury and serious bodily injury by omission, and that L.A.’s death resulted from starvation and abuse rather than an eating disorder. The judgments of conviction and sentences were affirmed.

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## ELECTION LAW

[In re Rogers](#), No. 26-0010, [2026 WL 91655](#) (Tex. Jan. 13, 2026)

**Mandamus inappropriate where there are disputed material facts – no duty to accept amended application after filing deadline**

**Facts:** A candidate for Justice of the Supreme Court sought to participate in the Texas Republican primary by submitting a ballot application to the party chair. The application was rejected as deficient, specifically due to concerns about the validity and sufficiency of the submitted signatures. The candidate disputed the rejection, arguing both that his original application met requirements and that he cured any alleged defects by submitting an amended application after the statutory deadline. The timing of the submissions was central: the original application was filed just hours before the deadline, and the amended materials were submitted

several days after the deadline had passed. After the application was rejected, the candidate sought temporary injunctive relief in a state district court. The trial court denied this request, and the candidate did not appeal the denial or seek emergency relief from the court of appeals. Instead, he pursued a writ of mandamus from the Supreme Court of Texas.

**Issue:** Did the party chair have a ministerial duty to accept his amended application and certify him as a candidate?

**Holding:** No. Mandamus denied. The Texas Supreme denied the petition for writ of mandamus. The court held that mandamus is inappropriate where there are genuinely disputed material facts and noted that the trial court had ruled against the candidate on the core factual dispute regarding the sufficiency of his signatures. Further, the court concluded that the law does not require election officials to accept amendments to ballot applications after the statutory deadline, especially when initial submissions occur at the very end of the filing period. The court found no violation of a ministerial duty or clear abuse of discretion by the party chair and thus denied the extraordinary relief requested.

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[ERIN ELIZABETH LUNCEFORD, Appellant v. TAMIKA CRAFT, Appellee](#), No. 01-23-00921-CV, [2026 WL 271992](#) (Tex. App. Feb. 3, 2026)

***Plaintiff failed to prove voting irregularities materially affected election outcome***

**Facts:** This case arises from an election contest following the November 8, 2022, general election for Judge of the 189th District Court in Harris County. The final canvass showed Tamika “Tami” Craft defeated Erin Elizabeth Lunceford by 2,743 votes. Lunceford filed an election contest alleging the canvass was inaccurate due to multiple voting irregularities, including: (1) Ballot paper shortages at polling places that allegedly prevented voters from voting; (2) Illegal votes cast by voters on the suspense list without submitting a Statement of Residence; (3) Illegal votes cast using incomplete Reasonable Impediment Declarations (RIDs); (4) Improper extension of voting hours via a temporary restraining order extending voting from 7:00 p.m. to 8:00 p.m. on Election Day. After a multi-day bench trial, the trial court found that 2,779 votes were “affected” in the contested race but concluded this number did not render the true outcome unascertainable, and it declared Craft the winner.

**Issues:** (1) Did the trial court err in finding that only 250–850 voters (rather than all 2,600 alleged voters) were unable to vote due to ballot paper shortages? (2) Did the court err by excluding 411 voters allegedly turned away for non-paper-related reasons? (3) Did the court err in its treatment of illegal votes? (4) Did the total number of affected or illegal votes make it impossible to ascertain the true outcome of the election, requiring the election to be voided?

**Holding:** Affirmed. The 1<sup>st</sup> Court of Appeals affirmed the trial court’s judgment, holding that Lunceford failed to prove by clear and convincing evidence that the alleged voting irregularities materially affected the election outcome or made the true outcome unascertainable. Although

the number of affected votes slightly exceeded the margin of victory, the evidence did not conclusively establish that enough eligible voters were prevented from voting or that enough illegal votes were cast in the contested race to warrant voiding the election. The trial court did not abuse its discretion in declaring Craft the winner.

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# EMPLOYMENT LAW

## -Employment Contract

JUSTIN CARL PFEIFFER, Appellant/Cross-Appellee v. DAVID H. BERG AND DAVID H. BERG & ASSOCIATES PC, D/B/A BERG & ANDROPHY, Appellees/Cross-Appellants, No. 01-24-00242CV, 2026 WL 232956 (Tex. App. Jan. 29, 2026)

### **Jury properly found no employment contract requiring payment after the attorney's September 2018 departure**

**Facts:** Justin Carl Pfeiffer, a Texas- and California-licensed attorney, was hired in 2017 as an associate by Berg & Androphy with a \$170,000 salary. In September 2018, the firm ended the relationship, escorting Pfeiffer from the office and terminating his system access. Pfeiffer contended he continued working on a California federal case as “attorney of record” until the court granted a withdrawal motion in November 2018 and claimed he was owed unpaid wages for work allegedly performed after his departure. Berg & Androphy disputed that Pfeiffer performed any authorized work after September 2018 and maintained that his employment ended then. Pfeiffer sued for breach of contract seeking approximately \$31,000 in unpaid wages. After trial, the jury found no employment contract existed requiring payment after September 2018, and the trial court entered a take-nothing judgment.

**Issues:** (1) Did the trial court err in denying Pfeiffer’s motion for partial summary judgment on the existence of an employment contract? (2) Did the trial court abuse its discretion in discovery rulings and evidentiary admissions? (3) Did alleged prejudicial testimony require a new trial? (4) Was the jury charge erroneous, including failure to instruct on contract principles or California attorney-ethics law? (5) Was the judgment final and properly dispose of all claims? (6) Did the trial court and regional administrative judge err in denying recusal motions? (7) On cross-appeal, did the trial court abuse its discretion by denying sanctions against Pfeiffer under Chapter 10 and Rule 13?

**Holding:** The First Court of Appeals affirmed the judgment in all respects. It held that denial of summary judgment was not reviewable after a jury trial; the jury properly decided whether an employment contract existed; the trial court did not abuse its discretion in discovery, evidentiary, or jury-charge rulings; alleged prejudicial testimony was not preserved for review or shown to be harmful; the judgment was final once all claims were resolved; recusal was not warranted based

on adverse rulings or campaign contributions; and the trial court did not abuse its discretion in denying sanctions against Pfeiffer.

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## **-Prevailing Wage Rate Act**

CHRISTOPHER LABARBERA, DEBBIE HAFNER, OMAR RODRIGUEZ, MATTHEW GARZA, JONAH GILBERT, BRODERICK MOORE, CHRISTOPHER HERNANDEZ, AND ROBERT SPENCER, Appellants, v. WEAVER & JACOBS CONSTRUCTORS, INC., Appellee., No. 13-23-00539-CV, 2025 WL 3454610 (Tex. App. Dec. 1, 2025)

***Any “worker” who files a prevailing-wage complaint—including a subcontractor’s employee—has statutory standing under Chapter 2258 – trial court erred in dismissing case.***

**Facts:** Subcontractor employees alleged they were paid less than the prevailing wage rate on a public works project. After complaints to the school district resulted in “no merit” findings, they petitioned for arbitrator appointment under Texas Government Code § 2258.053(b)(Prevailing Wage Rate Act). The general contractor (Weaver) argued they lacked standing because they were not its employees. The trial court agreed and dismissed based on Weaver’s plea to the jurisdiction.

**Issues:** (1) Do subcontractor employees have statutory standing to compel arbitration against a general contractor under Chapter 2258? (2) Does the statutory term “worker” include non-employees of the offending contractor? (3) Do Weaver’s merits-based defenses affect jurisdiction?

**Holding:** (1) Chapter 2258 grants standing to any “worker” who files a complaint, not just employees of the contractor or subcontractor. (2) Whether the general contractor owes wages is a merits question for the arbitrator, not a jurisdictional bar. (3) The trial court erred in granting the plea to the jurisdiction. Reversed and remanded.

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## **- Racial Discrimination**

TEXAS DEPARTMENT OF PUBLIC SAFETY, Appellant v. KELLYE TURNER, Appellee., No. 14-24-00709-CV, 2025 WL 3636681 (Tex. App. Dec. 16, 2025)

***Sovereign immunity not waived because Turner failed to raise a fact issue that the failure to promote her was motivated by race, sex, or retaliation – claims dismissed.***

**Facts:** Kellye Turner, a Black female DPS Captain with twenty-six years of service and no disciplinary history, applied for a promotion to Major in DPS’s Investigative Support Section. DPS selected another candidate, a white male, citing his specialized technical experience and vision for the position. Turner filed an EEOC/TWC complaint alleging race- and sex-based

discrimination and retaliation for prior discrimination complaints she had filed in 2016 and 2019. After receiving a right-to-sue letter, Turner sued DPS under the Texas Commission on Human Rights Act (TCHRA). The trial court denied DPS's combined plea to the jurisdiction and motion for summary judgment.

Issues: (1) Did Turner raise a genuine issue of material fact that DPS's stated reason for promoting another candidate was a pretext for race or sex discrimination sufficient to establish a waiver of sovereign immunity? (2) Did Turner establish a prima facie retaliation claim, including a causal connection between her prior protected activity and DPS's failure to promote her?

Holding: Reversed. The 14<sup>th</sup> Court of Appeals held that Turner failed to raise a fact issue showing DPS's legitimate, non-discriminatory reason for promoting another candidate was pretextual and failed to establish the causation element of her retaliation claim. Because Turner did not demonstrate a statutory violation, DPS's sovereign immunity was not waived. The court reversed the trial court's order and rendered judgment dismissing Turner's discrimination and retaliation claims.

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## - Religious Accommodation

Balboa v. Texas Children's Hosp., No. 14-24-00659-CV, 2025 WL 3545791 (Tex. App. Dec. 11, 2025)

***Fact issues existed as to the sincerity of the nurse's religious beliefs and hospital failed to conclusively prove that granting a religious exemption would impose undue hardship.***

**Facts:** Balboa, a labor-and-delivery nurse at Texas Children's Hospital, was terminated after she refused to comply with the Hospital's COVID-19 vaccination policy and sought a religious exemption based on her Christian beliefs. The Hospital denied her request, citing concerns about the sincerity of her beliefs and potential safety risks, and terminated her employment when she did not meet the vaccination deadline. Balboa sued, alleging religious discrimination and failure to accommodate under Title VII and the Texas Commission on Human Rights Act (TCHRA). The trial court granted summary judgment for the Hospital.

**Issues:** (1) Did the Hospital conclusively disprove, as a matter of law, that Balboa held a bona fide, sincerely held religious belief conflicting with the vaccination requirement? (2) Did the Hospital conclusively establish its affirmative defense that accommodating Balboa's religious objection would have imposed an undue hardship?

**Holding:** No. Reversed. The 14<sup>th</sup> Court of Appeals held that the Hospital failed to meet its summary-judgment burden to disprove the sincerity or religious nature of Balboa's professed beliefs, as credibility determinations are inappropriate at summary judgment, and further failed to conclusively establish undue hardship without competent, individualized evidence; therefore, the summary judgment was reversed and the case remanded for further proceedings.

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## -Retaliation

[MERCEDES HIRSCH, Appellant v. CITY OF HOUSTON, TX, Appellee](#), No. 14-24-00536-CV, 2025 WL 3636680 (Tex. App. Dec. 16, 2025)

**Police cadet raised fact issues showing she may qualify as a “first responder” for purposes of the workers’ compensation retaliation immunity waiver – plea to jurisdiction reversed and denied**

**Facts:** Mercedes Hirsch entered the Houston Police Academy in December 2021 as a police cadet and employee of the Houston Police Department. She was injured during a physical agility test and filed a workers’ compensation claim. Hirsch alleged that, after filing the claim, she was subjected to harassment and retaliatory actions, including false accusations, internal affairs complaints, disciplinary write-ups, and ultimately a permanent denial of employment or reapplication once she was medically released to return to work. Hirsch filed an EEOC charge in July 2023 and later sued the City alleging workers’ compensation retaliation under Texas Labor Code chapter 451 and retaliation under the Texas Commission on Human Rights Act (TCHRA). The trial court granted the City’s plea to the jurisdiction and dismissed her claims.

**Issues:** (1) Does a police academy cadet qualify as a “first responder” for purposes of the statutory waiver of governmental immunity for workers’ compensation retaliation claims? (2) Did Hirsch timely exhaust her administrative remedies for her TCHRA retaliation claim? (3) Does the TCHRA’s anti-retaliation provision apply to applicants or former employees denied reemployment?

**Holding:** Reversed. The 14<sup>th</sup> Court of Appeals held that (1) Hirsch raised a fact issue as to whether a police cadet’s duties include responding rapidly to emergencies, making her potentially a “first responder” and defeating the City’s plea to the jurisdiction; (2) her EEOC charge was timely as to alleged retaliation occurring in March 2023; and (3) the TCHRA’s anti-retaliation provision applies to applicants and former employees, including claims based on a refusal to rehire. The trial court’s order granting the plea to the jurisdiction was reversed, and the case was remanded for further proceedings.

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[TOMAS G. RIOS, M.D., Appellant v. CHI ST. LUKE'S HEALTH BAYLOR COLLEGE OF MEDICINE MEDICAL CENTER, Appellee](#), No. 14-24-00017-CV, 2026 WL 585164 (Tex. App. Mar. 3, 2026)

**Physician who proves retaliation under Health & Safety Code § 161.135 cannot recover if the hospital establishes peer-review immunity by showing its credentialing decision was made without malice and in good faith.**

**Facts:** Dr. Tomas Rios was a hospitalist with admission privileges at CHI St. Luke’s. The hospital had a Rapid Response Team (RRT) designed to quickly escalate deteriorating patients to ICU care. In 2015 Dr. Rios emailed hospital leadership expressing concerns that the RRT process

violated Texas law and improperly interfered with attending physicians. Shortly after, concerns arose about Dr. Rios's patient care, leading to a peer review of several cases. The first peer review found variances from the standard of care but his privileges were renewed in 2016. A second peer review (2018) found significant variances from the standard of care in two patient cases involving failure to properly escalate care. The Medical Executive Committee recommended nonrenewal of Dr. Rios's privileges. After a hearing and appeal within the hospital, the board denied renewal. The hospital reported the action to the National Practitioner Data Bank (NPDB) as required by law. Dr. Rios sued the hospital alleging retaliation under Texas Health & Safety Code § 161.135 for reporting violations of law, violations of due process and a request for injunctive relief to prevent reporting to (or expunge the report from) the NPDB. A jury found that Dr. Rios's report was "a cause" of the nonrenewal, that the hospital did not act with malice and that the hospital acted reasonably and in good faith. Zero damages were awarded. The trial court entered a take-nothing judgment for the hospital and denied injunctive relief.

**Issues:** (1) Was Dr. Rios entitled to judgment or a new trial because he "prevailed" on retaliation? (2) Was the evidence legally and factually insufficient to support the jury's findings on malice, good faith, reasonableness, and damages? (3) Does peer-review immunity bar only damages but not injunctive relief? (4) Should the court have ordered expunction under Occupations Code § 160.013?

**Holding:** Affirmed. The 14<sup>th</sup> Court of Appeals held that although the jury found retaliation was "a cause" of nonrenewal, it was not the sole cause. The hospital presented evidence that two patient cases showed substantial variances from the standard of care, multiple levels of peer review supported nonrenewal and the process included hearings and appellate review. The jury also found no malice. Because Texas Occupations Code § 160.010 provides peer-review immunity absent malice, Dr. Rios could not recover. The court also held that the evidence supported the no malice jury finding. To overcome statutory immunity, Dr. Rios had to prove the hospital acted with "specific intent to cause substantial injury or harm." The court held that the 2015 recorded conversation was insufficient to establish malice. The 2018 peer review was based on documented patient-care concerns. There was legally and factually sufficient evidence supporting the jury's finding of no malice. The court found that the jury findings were not inconsistent and could be reconciled because retaliation could be "a cause" of nonrenewal, legitimate quality-of-care concerns were also a cause, and the hospital could still act without malice or bad faith. The court held that federal HCQIA does not override Texas Peer Review Immunity and rejected Dr. Rios's arguments, explaining that the federal HCQIA limits immunity only as to damages. Texas law independently provides broader immunity from civil liability absent malice. The statutes complement each other. The court also held that Occupations Code § 160.013, expunction requires a finding of bad faith and there was no such finding. The take nothing judgment was affirmed.

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[TEXAS DEPARTMENT OF INSURANCE, Appellant v. SOM THOMAS, Appellee](#), No. 15-24-00073-CV, [2026 WL 784613](#) (Tex. App. Mar. 19, 2026)

**State agencies retain immunity from ADA Title I and FMLA self-care claims, and Chapter 21 claims fail where the employee cannot rebut a legitimate, nondiscriminatory reason for termination with evidence of pretext.**

**Facts:** Som Thomas, a longtime financial examiner for the Texas Department of Insurance (TDI), took medical leave for prostate cancer surgery and returned to work with alleged limitations. He requested accommodations, including lighter assignments and exemption from training duties. His supervisors assigned him complex work and maintained expectations inconsistent with his requested accommodations. After workplace disputes and complaints to management, Thomas stopped reporting to work. TDI ultimately terminated him for job abandonment. Thomas sued TDI alleging disability discrimination, failure to accommodate, and retaliation under Chapter 21 of the Texas Labor Code, along with claims under the ADA and FMLA. TDI filed a plea to the jurisdiction asserting sovereign immunity. The trial court denied the plea as to TDI, and TDI appealed.

**Issues:** (1) Does sovereign immunity barr Thomas’s federal claims under the ADA (Title I) and FMLA (self-care provision)? (2) Did Thomas allege and produce sufficient evidence to establish a prima facie case of disability discrimination, failure to accommodate, and retaliation under Chapter 21? (3) Did Thomas raise a fact issue on pretext after TDI provided a legitimate, nondiscriminatory reason for termination? (5) Should dismissal be with prejudice without further opportunity to amend?

**Holding:** The 15<sup>th</sup> Court of Appeals reversed and rendered judgment dismissing all claims against TDI, holding that the ADA and FMLA claims were barred by sovereign immunity. Congress did not validly abrogate immunity for ADA Title I employment claims, or FMLA self-care claims. As to the Chapter 21 claims the court held that, although Thomas’s pleadings minimally alleged disability and causation, TDI established a legitimate, nondiscriminatory reason for termination—job abandonment. Thomas failed to produce evidence raising a genuine fact issue of pretext. The failure to accommodate claim failed because the requested exemption from training duties was not a reasonable accommodation (it removed an essential job function). The retaliation claim failed for the same reason—no evidence of pretext. Thomas’ claims were dismissed with prejudice because he had already amended and still failed to establish jurisdiction.

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## **-Workers Compensation**

[In re Fort Bend Cnty.](#), No. 15-25-00061-CV, [2026 WL 502194](#) (Tex. App. Feb. 24, 2026)

**District court lacks jurisdiction to enjoin an ALJ’s discovery subpoena in a workers’ compensation contested case because the Division of Workers’ Compensation has exclusive jurisdiction and the objecting party must exhaust administrative remedies before seeking judicial review.**

**Facts:** Joshua Heiliger, individually and on behalf of his deceased wife Lauren Smith's estate and their daughter, sought workers' compensation death benefits through the Texas Department of Insurance, Division of Workers' Compensation (DWC). Lauren, a Fort Bend County EMS paramedic, died at home. Heiliger contended that stress from a 48-hour shift contributed to her death; Fort Bend County disputed compensability. During the contested case proceeding before the DWC, Fort Bend County requested a subpoena for Lauren's mental health records from her physician. The Administrative Law Judge (ALJ) overruled Heiliger's objections and issued the subpoena. Heiliger filed suit in Harris County district court seeking a TRO and temporary injunction to prevent issuance/enforcement of the subpoena. The district court granted the TRO and later a temporary injunction, and denied Fort Bend County's plea to the jurisdiction. Fort Bend County and the ALJ sought interlocutory appeal and mandamus relief.

**Issues:** (1) Does a district court have jurisdiction to enjoin an ALJ's issuance of a discovery subpoena in a workers' compensation contested case? (2) Does the DWC have exclusive jurisdiction over discovery disputes in compensability proceedings? (3) Could Heiliger seek district court intervention before exhausting administrative remedies? (4) Does the Texas Supreme Court's decision in *University of Texas Rio Grande Valley v. Oteka* permit parallel district court intervention?

**Holding:** The Fifteenth Court of Appeals conditionally granted mandamus relief. A district court lacks jurisdiction to enjoin an ALJ's discovery subpoena in a workers' compensation contested case because the Division of Workers' Compensation has exclusive jurisdiction and the objecting party must exhaust administrative remedies before seeking judicial review. The court distinguished *Oteka* because it involved an employee who filed suit in district court and did not invoke the DWC's jurisdiction. Here, Heiliger initiated the DWC proceedings himself, thereby invoking the agency's exclusive jurisdiction. Once the administrative process was invoked, statutory procedures controlled. The court rendered judgment dismissing the district court suit for lack of jurisdiction and dismissed the related interlocutory appeal as moot because the injunction order was void.

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[MOTIVA ENTERPRISES, LLC, Appellant v. TYLER WHITMIRE, Appellee](#), No. 09-25-00053-CV, [2026 WL 827120](#) (Tex. App. Mar. 26, 2026)

**Premises owner providing workers' compensation coverage to subcontractor's employee was statutory employer entitled to exclusive-remedy immunity; independent-contractor clause did not waive defense.**

**Facts:** Tyler Whitmire was injured while working on premises owned by Motiva Enterprises as an employee of a subcontractor, RRR Electripro, LLC. Whitmire sued Motiva for personal injuries. Motiva moved for summary judgment, asserting the exclusive-remedy defense under the Texas Workers' Compensation Act (TWCA), arguing that Motiva entered into a Master Service Agreement (MSA) with RRR, RRR enrolled in Motiva's Rolling Contractor Insurance Program (RCIP), Motiva provided workers' compensation coverage for RRR and its employees, and Whitmire received workers' compensation benefits for the injury. Whitmire responded that there was a fact issue as to whether the MSA was executed before the injury; and

Motiva contractually waived the exclusive-remedy defense because the MSA described RRR and its employees as independent contractors. The trial court denied summary judgment and permitted a permissive interlocutory appeal.

**Issues:** (1) Did the appellate court have jurisdiction to consider the interlocutory appeal involving summary judgment issues framed as “controlling questions of law.” ? (2) Did Motiva conclusively establish it was Whitmire’s statutory employer under the TWCA, entitling it to immunity? (3) Did a genuine issue of material fact exist regarding whether the MSA was in effect at the time of the injury? (4) Did the MSA’s designation of RRR as an independent contractor constitute a waiver or opt-out of the exclusive-remedy defense?

**Holding:** The 9<sup>th</sup> Court of Appeals reversed and rendered summary judgment for Motiva. The court adopted a broad reading of permissive appeal jurisdiction, holding that controlling legal questions may include application of law to facts in the summary judgment context. The evidence (including DocuSign certificate) conclusively established the MSA was executed before the injury. Motiva proved it provided workers’ compensation coverage to RRR’s employees under a qualifying agreement, making it Whitmire’s statutory employer under the TWCA. The “independent contractor” language did not waive the exclusive-remedy defense. Statutory provisions allow parties to remain independent contractors generally while still creating an employer relationship for workers’ compensation purposes only. Thus, Motiva was immune from suit, and Whitmire’s claims were barred.

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## **-Wrongful Termination**

[SOUTH CHINA MANAGEMENT, LLC; LB BUCKHEAD LLC; LB CHERRY CREEK LLC; AND THOMAS RICKARD WAHLSTEDT, Appellants v. JULIE LIN, Appellee](#), No. 14-24-00879-CV, [2026 WL 59873](#) (Tex. App. Jan. 8, 2026)

*Texas employee cannot sue out of state affiliates or shareholders of the employing LLC*

**Facts:** Julie Lin was employed by South China Management, LLC, as wine and mixed beverage director for its restaurants. SCM is an Illinois limited liability company. According to her contract, Lin was to be based out of Le Colonial restaurant in Houston. Le Colonial Texas, LLC, is an affiliate of SCM, as are LB Buckhead LLC and LB Cherry Creek LLC. Wahlstedt indirectly owns an interest in SCM. Lin claims she was asked to commit commercial bribery and fabricate documents in Texas. When she refused, she was abruptly terminated. Lin filed suit a *Sabine Pilot* claim for wrongful termination, and SCM, Buckhead, Cherry Creek, and Wahlstedt filed a special appearance challenging jurisdiction, which the trial court denied.

**Issue:** Did the trial court err in denying the special appearance of SCM, Buckhead, Cherry Creek and Wahlstedt?

**Holding:** No as to SCM; yes as to Buckhead, Cherry Creek, and Wahlstedt. Buckhead, based in Georgia, and Cherry Creek, based in Colorado, do not operate restaurants in Texas or have any substantial connection. While Lin provided services to the restaurants, her employer was SCM.

SCM does have ties to Texas as it operates a restaurant there and directed Lin, under her contract, to work at it. Reversed and rendered, dismissing claims against Buckhead, Cherry Creek, and Wahlstedt. Affirmed as to SCM.

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## ENERGY LAW

### -Ad Valorem Taxation

[San Patricio Cnty. Appraisal Dist. v. Gunvor USA LLC](#), No. 13-24-00590-CV, [2026 WL 59714](#) (Tex. App. Jan. 8, 2026)

***Oil being stored for international export is not taxable by a county appraisal district.***

**Facts:** Crude oil arrives via pipeline to Taft Junction, where it is stored for transport overseas. The San Patricio County Appraisal District assessed taxes on the oil stored by Devon and Gunvor for tax year 2023. The companies protested, then sued the District, arguing the oil is exempt from ad valorem taxation under the Import-Export Clause and the Texas Tax Code. The trial courts granted the companies' motions for summary judgment in both cases, ruling that the subject oil is exempt from taxation. The District appealed.

**Issue:** Is oil awaiting transport overseas exempt from ad valorem taxation?

**Holding:** Yes. The 13<sup>th</sup> Court of Appeals held that the record shows that the oil in both cases was in the export stream, was pre-committed to international buyers, and was not diverted domestically. Under *Va. Indon. Co. v. Harris Cnty. Appraisal Dist. (VICO)*, 910 S.W.2d 905 (Tex. 1995), the Texas Supreme Court held that goods retain their export status once exportation has begun, and temporary interruptions do not break the continuity of transit. The subject oil had to be stored as it awaited tanker ships for transport, not to serve any other purpose of the owner. Therefore, the subject oil enjoyed "bright-line" immunity from taxation under the Import-Export Clause of the United States Constitution. Affirmed.

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### -Lease Termination

[MRC Permian Co. v. Point Energy Partners Permian LLC](#), No. 08-19-00124-CV, [2025 WL 3532442](#) (Tex. App. Dec. 9, 2025)

***Quasi-estoppel did not prevent the Lessors from asserting lease termination, the late-filed designations did not limit retained acreage, and the retained-acreage clause required measuring horizontal wellbore length from penetration into the producing formation to the terminus—entitling lessee to two 352-acre Production Units totaling 704 acres.***

**Facts:** MRC held a 2014 oil-and-gas lease covering ~4,000 acres in Loving County. The lease required continuous drilling to maintain the acreage beyond the primary term, and its retained-acreage clause allowed MRC to keep acreage within designated Production Units for each producing well, capped at either 176 acres (160 + 10% tolerance) or 352 acres (320 + 10% tolerance) depending on whether the horizontal wellbore extended more than 5,000 feet in the producing formation. MRC drilled five horizontal wells but failed to file Production Unit designations within 90 days of completion. In 2017 MRC missed its deadline to spud a sixth well; Point Energy (seeking to replace MRC as operator) asserted the lease had terminated. MRC sued for title, breach of contract, tortious interference, and declaratory relief; Point Energy counterclaimed for title and breach, also raising waiver and estoppel. The trial court granted partial summary judgment for Point Energy, holding the lease terminated as to all acreage outside Production Units and rejecting MRC's quasi-estoppel defense. After an interlocutory permissive appeal, the Texas Supreme Court ruled that force majeure did not apply as a matter of law and remanded two unresolved issues: (1) whether quasi-estoppel saved the lease, and (2) how to construe the retained-acreage clause—including how to measure the 5,000-foot horizontal wellbore threshold.

**Issues:** (1) Does quasi-estoppel prevent Point Energy/Lessors from asserting lease termination after accepting royalty payments? (2) Is the 90-day Production Unit designation requirement a covenant or a special limitation causing partial lease termination? (3) How to measure whether the wellbore “extends more than 5,000 feet horizontally in the producing formation.” (4) Does MRC retain two 352-acre Production Units (704 acres total) or only two 160-acre units?

**Holding:** The 8<sup>th</sup> Court of Appeals held that quasi-estoppel does not apply. The court held that MRC could not rely on quasi-estoppel because it knowingly paid royalties while litigation was pending and after receiving explicit notice that the Lessors claimed the lease had terminated. The Lessors accepted royalties only under reservation of rights and without knowledge of what amounts were ultimately owed. Under these circumstances, acceptance of payments was not unconscionable and created no estoppel. As to Issue #2, the court ruled that the 90-day filing requirement was a covenant, not a special limitation. Because the lease contained no language providing that failure to timely file Production Unit designations would cause automatic termination, the provision was only a covenant. Therefore, MRC's late filings did not reduce the acreage it was entitled to retain. Regarding Issue #3, the court held that wellbore length is measured from the point where the wellbore first enters the producing formation and “kicks off” from vertical, to its terminus—not merely the perforated (producing) interval or parts within a defined angle. The lease language required measurement of how far the wellbore itself “extends horizontally in the producing formation,” not how far it produces or how far it lies within a particular angular threshold. Using this measurement, both the Totum #211H and Jackson Trust #121H wells exceeded 5,000 feet. On Issue #4, the court ruled that MRC retained two 352-acre Production Units—704 acres total. The court rendered judgment that MRC holds title to 352 acres in Section 18 and 352 acres in Section 12, consistent with its recorded designations. The

case was remanded for an accounting and remaining proceedings on Point Energy's breach-of-contract counterclaim.

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## **-Royalties**

THE NAVIGATOR GROUP ET AL., Appellants v. SUSAN DAVIS VAN DYKE ET AL., Appellees., No. 11-24-00007-CV, 2026 WL 545548 (Tex. App. Feb. 27, 2026)

***A 1924 reservation of “one-half of one-eighth of all minerals and mineral rights” reserves one-half of the entire mineral estate—including royalties—and intermediate courts are bound by the Texas Supreme Court’s prior interpretation under stare decisis and the law-of-the-case doctrine.***

**Facts:** In a 1924 deed, George and Frances Mulkey conveyed ranch property but reserved: “one-half of one-eighth of all minerals and mineral rights in said land.” For years, the parties disputed whether this double fraction reserved: 1/16 (one-half × one-eighth) of the minerals (a literal arithmetic reading), or 1/2 of the mineral estate (based on historical usage of “1/8” in early oil-and-gas deeds). In 2020, the Eleventh Court initially held the reservation was 1/16. The Texas Supreme Court reversed in *Van Dyke v. Navigator Group* (2023), holding the Mulkey successors own 1/2 of the mineral estate, and remanded for further proceedings. On remand, the trial court entered judgment declaring that the Mulkeys reserved an undivided one-half of the entire mineral estate. The White successors (Navigator Group and others) appealed again, arguing the trial court misapplied the Supreme Court’s ruling.

**Issues:** (1) Did the trial court misapply the Texas Supreme Court’s holding in *Van Dyke II* by awarding the Mulkey successors one-half of the entire mineral estate, including royalties? (2) Did the Mulkeys instead reserve one-half of the minerals but only a fixed 1/16 royalty interest? (3) Should the court should disregard *Van Dyke II* as wrongly decided? (4) Does the presumed-grant doctrine limit the Mulkey successors’ royalty entitlement?

**Holding:** The 11th Court of Appeals affirmed the trial court’s judgment. The 1924 deed reserved an undivided one-half of the entire mineral estate, including the corresponding royalty interest, and the court is bound by the Texas Supreme Court’s holding in *Van Dyke II*.

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EVANS RESOURCES, L.P., Appellant v. PETROPLEX ENERGY, INC.; RYAN C. ANWAR; LESLIE G. ANWAR; AND SYED JAVAID ANWAR, AS INDEPENDENT ADMINISTRATOR FOR THE ESTATE OF TAHIRA KHATOON, Appellees., No. 11-24-00192-CV, 2026 WL 691885 (Tex. App. Mar. 12, 2026)

***Lessor whose lease is contributed to a joint operating agreement generally cannot enforce the JOA against other working-interest owners absent privity or clear third-party beneficiary language.***

**Facts:** Evans Resources, L.P. owned mineral interests in a 651-acre tract in Midland County and leased those interests to an operator (Bluestem), which later assigned the lease to Diamondback

Diamondback later entered into a Joint Operating Agreement (JOA) with Petroplex Energy and members of the Anwar family, who contributed their own leases to the agreement. Diamondback served as the operator and distributed revenue from wells according to each party's share under the JOA. Evans claimed that its lease terminated in 2018 as to certain acreage and depths, which meant Evans and Diamondback allegedly became cotenants in that portion of the mineral estate. Evans asserted that Diamondback drilled wells through this "cotenancy acreage" and paid revenues to the Anwars that should have been paid to Evans. Evans sued the Anwars arguing the JOA required the Anwars to pay their proportionate share of royalties owed under the Evans lease and money had and received, claiming the Anwars were paid funds from production that rightfully belonged to Evans. The Anwars moved for summary judgment, arguing that they had no contractual relationship or legal duty to Evans and that they never received any revenue attributable to Evans's mineral interests. The trial court granted summary judgment and rendered a take-nothing judgment against Evans.

**Issues:** (1) Did the Joint Operating Agreement create privity of contract, privity of estate, or third-party beneficiary status allowing Evans (a lessor whose lease was contributed by Diamondback) to require the Anwars to pay royalties? (2) Did Evans raise a fact issue that the Anwars received production proceeds that equitably belonged to Evans?

**Holding:** The 11<sup>th</sup> Court of Appeals affirmed the trial court's summary judgment and held that Evans could not recover from the Anwars. The court held that Evans could not enforce the royalty provisions of the JOA because Evans was not a party to the JOA. The JOA did not assign Diamondback's lease interest to the Anwars and expressly disclaimed any assignment or cross-assignment of interests. The agreement contained no clear intent to directly benefit Evans as a third-party beneficiary. Therefore, Evans lacked privity of contract, privity of estate, and third-party beneficiary status, and the Anwars had no duty to pay royalties directly to Evans. Evans also failed to prove that the Anwars held money belonging to it. The evidence showed that Diamondback, as operator, collected all production revenue and distributed it according to JOA interests. The Anwars received revenue only from the leases they contributed to the JOA. No proceeds attributable to Evans's lease were paid to the Anwars. Evans presented no evidence raising a fact issue that the Anwars received funds belonging to Evans. Affirmed.

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[Clifton v. Johnson](#), No. 23-0671, [2026 WL 705763](#) (Tex. Mar. 13, 2026)

***Deed stating a royalty interest as "1/128 (1/16 of the usual 1/8 royalty)" conveyed a fixed 1/128 nonparticipating royalty interest, because the deed's text rebutted the *Van Dyke* double-fraction presumption and showed the fractions were used in their ordinary mathematical sense.***

**Facts:** In 1951, the grantors executed a royalty deed conveying an interest in oil and gas production from land in Reeves County, Texas. The deed stated that the grantees received "an undivided 1/128 interest" in the minerals and also described the interest in future leases as "1/128 (1/16 of the usual 1/8 royalty)." For roughly 70 years, the parties and their successors consistently treated the deed as conveying a fixed 1/128 nonparticipating royalty interest, and royalties were paid accordingly. In 2020, a successor to the original grantees, Scott Johnson,

challenged that understanding. He argued that the deed's double-fraction language meant the deed conveyed a floating 1/16 royalty interest, not a fixed 1/128 interest. The trial court granted summary judgment for the Clifton parties, holding that the deed conveyed a fixed 1/128 royalty interest. The court of appeals reversed, applying the "double-fraction presumption" discussed in *Van Dyke v. Navigator Group*, which presumes that references to "1/8" in older mineral deeds refer to the entire mineral estate rather than a literal fraction. The Texas Supreme Court granted review.

**Issues:** (1) Did the deed's language "1/128 (1/16 of the usual 1/8 royalty)" create a floating 1/16 royalty interest or a fixed 1/128 royalty interest? (2) Did the court of appeals properly apply the double-fraction presumption recognized in *Van Dyke v. Navigator Group*, or did the deed's language rebut that presumption? (3) Should the case be remanded for consideration of the presumed-grant doctrine, which recognizes long-standing property claims based on decades of consistent ownership and acquiescence?

**Holding:** The Texas Supreme Court reversed the court of appeals and reinstated the trial court's summary judgment, holding that the deed conveyed a fixed 1/128 nonparticipating royalty interest, not a floating 1/16 royalty interest. While the *Van Dyke* decision recognizes a presumption that references to 1/8 in older deeds may represent the entire mineral estate, that presumption is rebuttable by the text of the instrument. The Court found the deed itself rebutted the presumption because the deed repeatedly used 1/128 as the operative royalty fraction. The parenthetical "1/16 of the usual 1/8 royalty" simply explained how the parties arrived at the 1/128 figure ( $1/16 \times 1/8 = 1/128$ ). The language showed the parties were using 1/8 as a literal fraction, not as a shorthand for the entire mineral estate. Thus, the deed unambiguously conveyed a fixed 1/128 royalty interest. Because the deed expressly conveyed 1/128 of production, the interest does not change depending on the royalty reserved in future leases. Instead, it remains a fixed fractional royalty. The Court noted that the parties had treated the deed as creating a fixed 1/128 royalty for approximately 70 years, which could potentially support the presumed-grant doctrine. However, because the deed's text itself resolved the dispute, the Court did not need to rely on that doctrine.

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[Kent B. HOFFMAN, Susan Hoffman Binieck, E. Peter Hoffman Jr., & Marni H. Cooney, Appellants v. Andrew M. THOMSON et al Appellees, No. 04-19-00771-CV, 2026 WL 758737 \(Tex. App. Mar. 18, 2026\)](#)

***Double-fraction royalty ("3/4 of usual 1/8") creates a floating royalty, not a fixed fraction, absent clear textual rebuttal.***

**Facts:** In 1956, the Hoffmans conveyed a 1,070-acre tract but reserved a nonparticipating royalty interest in the deed. The reservation described the interest as "3/32 (being 3/4 of the usual 1/8 royalty)". A dispute later arose between successors (Hoffmans vs. Peelers) over how to interpret this reservation. Hoffmans argued it was a floating 3/4 royalty interest (i.e., 3/4 of whatever royalty is in future leases). Peelers argued it was a fixed 3/32 royalty interest. The trial court

granted summary judgment for the Peelers, construing the interest as fixed. After appellate proceedings and remand from the Texas Supreme Court to apply *Van Dyke v. Navigator Group*, the court of appeals reconsidered the deed.

**Issues:** (1) Did the 1956 deed reserve a fixed royalty (3/32) or a floating royalty (3/4 of the lease royalty)? (2) Did the *Van Dyke* presumption (that references to “1/8” in double fractions are placeholders for the landowner’s royalty) apply to this deed? (3) Did other deed language (e.g., repeated use of 3/32, bonus clauses, existing leases) rebuts that presumption?

**Holding:** Reversed. The 4<sup>th</sup> Court of Appeals held that the deed reserved a floating 3/4 nonparticipating royalty interest, not a fixed 3/32 interest. The deed contains a double fraction (“3/4 of the usual 1/8 royalty”), triggering the *Van Dyke* presumption that “1/8” is a term of art representing the standard landowner’s royalty, not a literal fraction. The phrase “usual 1/8 royalty” reinforces that the parties intended a floating royalty tied to future leases. The repeated use of 3/32 does not rebut the presumption because it must be read together with the explanatory double-fraction language, not in isolation. Other provisions (bonus clause, existing lease terms) do not provide a clear textual basis to overcome the presumption. Reading the deed holistically, the only consistent interpretation is a floating 3/4 royalty interest. Judgment was reversed and rendered, with remand for costs and attorney’s fees.

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## **-Texas Oilfield Anti-Indemnity Act (TOAIA)**

[Lone Star Well Serv. LLC v. RMTDC Operations](#), No. 11-24-00054-CV, [2026 WL 387387](#) (Tex. App. Feb. 12, 2026)

**Oil field contractor qualified as third-party beneficiary entitled to defense and indemnity under master services agreement supported by insurance under TOAIA safe harbor.**

**Facts:** Lone Star Well Service and Parsley Energy entered into a master services agreement (MSA) containing a “knock-for-knock” mutual indemnity provision requiring each party to defend and indemnify the other and members of their respective groups, including contractors, for injuries to their own employees. Total Energy Services separately contracted with Parsley to provide a well consultant (Ramirez). A Lone Star employee was injured at the wellsite and sued Parsley, Total, and others. Total intervened in a declaratory judgment action seeking defense and indemnity from Lone Star, asserting it was a third-party beneficiary of the Lone Star–Parsley MSA. After a bench trial, the trial court ruled that Lone Star was obligated to defend and indemnify Total and awarded attorney’s fees. Lone Star appealed, arguing the indemnity was barred or limited by the Texas Oilfield Anti-Indemnity Act (TOAIA), that Total was not entitled to indemnity, and that the indemnity obligation was improperly determined.

**Issues:** (1) Does TOAIA bar Total’s claim for defense and indemnity because there was no direct indemnity agreement between Lone Star and Total and no mutual indemnity supported by insurance? (2) Does Total qualify as a third-party beneficiary entitled to enforce the Lone Star–Parsley indemnity agreement? (3) Is Lone Star’s indemnity obligation limited to the insurance coverage required under TOAIA? (4) Was the indemnity claim premature or unripe

while the underlying personal injury lawsuit was pending? (5) Did the trial court properly award attorney's fees to Total?

**Holding:** The 11<sup>th</sup> Court of Appeals held that Total was a third-party beneficiary of the Lone Star–Parsley MSA and was entitled to defense and indemnity under that agreement because the indemnity provision was supported by mutual insurance and fell within TOAIA's safe harbor. However, the trial court erred by failing to determine and limit the amount of indemnity to the applicable insurance coverage limits. The declaratory judgment action was ripe, and the attorney's fee award was proper because Total prevailed on its indemnity claim. The court affirmed the judgment in part and remanded for determination of the specific indemnity amount.

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# ESTATE AND PROBATE LAW

## -Finality of Judgment

In the Est. of J. Hugh Wheatfall, Deceased, No. 24-0778, 2026 WL 406025 (Tex. Feb. 13, 2026)

***To be a final order in probate context, the order must dispose of every party and issue in a particular phase of the proceedings.***

**Facts:** Hugh Wheatfall died in 2018. His son, Isaiah Wheatfall, applied for letters of administration, alleging Hugh died intestate. Hugh's granddaughter, Theresa DeBose, filed an application to probate a copy of a 2009 will and requested letters testamentary. Before the trial court ruled, Isaiah filed a written will contest alleging improper execution, lack of testamentary capacity, and undue influence. On September 16, 2019, the trial court admitted the will to probate, denied Isaiah's application for administration, and overruled objections asserted through September 4, 2019—but did not expressly rule on Isaiah's September 5 will contest. Later, the trial court dismissed the will contest, concluding that its 2019 probate order had been final and that Isaiah failed to timely appeal it. The court of appeals agreed and dismissed the appeal for lack of jurisdiction. Isaiah petitioned for review.

**Issues:** (1) Was the trial court's September 16, 2019 order admitting the will to probate and denying letters of administration a final, appealable order? (2) Did that order dispose of the son's pending will contest even though the order expressly limited its ruling to objections filed through September 4, 2019?

**Holding:** The Supreme Court reversed. The Court first recognized that an order is final in the probate context for purposes of appeal if it actually disposes of every party and issue in a particular phase of the proceedings. The Court then held that the order admitting the will to probate did not do so because (1) the order expressly did not resolve any objections asserted after September 4, 2019, and thus did not express an unequivocal intent to dispose of all issues related to the will's validity; and (2) the record confirmed that Wheatfall asserted objections after September 4, which the order left pending. The Court remanded to the court of appeals to address the merits

of Wheatfall’s appeal of the dismissal order.

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## **-Partition in Kind**

MARTIN GONZALEZ, Appellant v. MARGARITA EMILIA MONTALVO, Appellee, No. 14-24-00914-CV, 2026 WL 771046 (Tex. App. Mar. 19, 2026)

***Trial court abused its discretion by ordering sale of estate property without evidence that the estate as a whole could not be partitioned in kind; lis pendens properly expunged and no jury right survives a nonsuit.***

**Facts:** Decedent Rebecca Gonzalez left her estate to several of her children, including Martin, Margarita, and Mary Ann. Margarita served as independent executor after Martin renounced that role. The estate included multiple tracts of real property and a residence. Litigation arose when another sibling contested the will, but the parties ultimately entered into a mediated settlement agreement resolving those claims. Later, disputes continued between the siblings regarding estate administration, debts, and distribution. Margarita, as executor, applied to sell certain real property to pay estate debts and expenses, and partition or sell the remaining property. She argued the land could not be fairly partitioned in kind. Martin opposed the application, demanded a jury trial, and filed a lis pendens. The trial court approved sale of the property, found the land incapable of partition in kind, denied a jury trial, and expunged the lis pendens. Martin appealed.

**Issues:** (1) Did the trial court err by denying Martin a jury trial after another party (who later nonsuited) requested one? (2) Did the trial court err in finding the estate property was incapable of partition in kind, thereby justifying a sale? (3) Did the trial court err in expunging Martin’s notice of lis pendens? (4) Was the order authorizing sale of property a final, appealable order?

**Holding:** The 14<sup>th</sup> Court of Appeals affirmed in part and reversed and remanded in part. The court first held that they had jurisdiction because the partition proceedings involved two final, appealable orders. The order determining whether property is partitioned in kind or by sale is appealable. The court held that the trial court did not abuse its discretion in denying a jury trial. The only jury demand came from a party who later nonsuited her claims. A nonsuit returns parties to their pre-suit positions—thus no jury request remained. Regarding the partition, the court noted that Texas law favors partition in kind over sale. The party seeking sale bears the burden to prove partition is not feasible. The Executor’s proof was insufficient because she focused on whether each individual tract could be divided equally. The correct inquiry is whether the estate as a whole can be fairly partitioned. No evidence showed the tracts could not be combined or allocated to achieve equality. Failure to analyze the estate as a whole constituted an abuse of discretion. The court also held that the lis pendens was properly expunged. To maintain

lis pendens, the claimant must show probable validity of a real property claim. Martin failed to meet this burden. Expunction was proper regardless of notice arguments.

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## **-Standing**

IN THE ESTATE OF JUNE NELL SCHWAB, DECEASED, No. 13-24-00304-CV, 2026 WL 59713 (Tex. App. Jan. 8, 2026)

### ***No standing to contest will due to no evidence of an agreement to adopt***

**Facts:** June Nell Schwab executed a 2021 will leaving her entire estate to her surviving son, Joe Schwab, after her other son, James Schwab, predeceased her. Carmen Schwab, James's stepdaughter, opposed probate of the will, alleging lack of testamentary capacity and undue influence. Carmen claimed she had standing to contest the will because she was equitably adopted by James and therefore was June's descendant. The trial court granted the executors' plea to the jurisdiction and summary judgment, finding Carmen lacked standing because she failed to establish a justiciable interest in the estate.

**Issues:** (1) Did Carmen Schwab have standing as an "interested person" to contest the probate of June Schwab's will? (2) Did Carmen raise a genuine issue of material fact that she was equitably adopted by James Schwab? (3) Was the evidence of a close familial relationship, without proof of an agreement to adopt, sufficient to establish equitable adoption for inheritance purposes?

**Holding:** No on all issues. Affirmed. The 13<sup>th</sup> Court of Appeals held that Carmen lacked standing to contest the will because she failed to raise a genuine issue of material fact that an agreement to adopt existed between James Schwab and her biological parents, as required to establish equitable adoption; therefore, the trial court properly granted the plea to the jurisdiction and summary judgment and the judgment was affirmed.

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## **FAMILY LAW**

### **-Conservatorship**

IN THE INTEREST OF A.N.G. AND A.G.G., CHILDREN, No. 07-25-00156-CV, 2026 WL 231970 (Tex. App. Jan. 28, 2026)

### ***Sufficient evidence supported modification – Lenz factors don't apply if no parent seeks relocation***

**Facts:** Mother and Father divorced in 2022 and were appointed joint managing conservators of their two daughters, with Mother having the exclusive right to designate the children's primary residence without geographic restriction. In 2024, Father sought modification, requesting the

exclusive right to determine the children's residence. After a bench trial, the trial court modified the prior order, naming Father as the joint managing conservator with the exclusive right to designate the children's primary residence within Lubbock or Andrews counties, and awarding Mother standard possession. Mother appealed.

**Issues:** (1) Did the trial court abuse its discretion by finding that modification of conservatorship was in the children's best interest? (2) Was the evidence legally and factually sufficient evidence to support appointing Father as the conservator with the exclusive right to designate the children's primary residence? (3) Did the trial court err by failing to apply or address the *Lenz* relocation factors in its best-interest analysis?

**Holding:** Affirmed. The 7<sup>th</sup> Court of Appeals affirmed the modification order, holding that sufficient evidence supported the trial court's best-interest finding and appointment of Father as the conservator with the exclusive right to designate the children's primary residence, and that the *Lenz* relocation factors did not apply because no parent sought to relocate and Mother did not challenge the geographic restriction.

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## **-Enforcement**

***Divorce court may enforce a decree and award damages for breach, but it exceeds its authority by reallocating property without determining the actual damages caused by the violation of the decree.***

[Morrison v. Morrison](#), No. 24-0053, [2026 WL 247877](#) (Tex. Jan. 30, 2026)

**Facts:** Debbie Morrison and Rodney Morrison divorced in April 2021. Their agreed divorce decree required the sale of several items of community property, including the marital residence and a workshop, and provided that each spouse would receive half of the proceeds from the sale of the marital residence. The decree also required the parties to deliver certain personal property to a receiver and to maintain the property in the same condition as it existed at separation. The decree included an enforcement provision stating that if either party damaged or failed to deliver property as ordered, the fair market value of the missing or damaged property would be assessed against the breaching spouse and paid out of that spouse's share of the proceeds from the sale of the marital residence. Debbie later filed a motion for enforcement and contempt, alleging Rodney had damaged property and failed to deliver various items. The trial court found numerous violations of the decree and awarded Debbie 100% of the proceeds from the sale of the marital home as damages, along with attorney's fees and other costs. Rodney appealed, arguing the trial court improperly modified the property division in the divorce decree. The court of appeals agreed and vacated the enforcement order for lack of jurisdiction. Debbie sought review in the Texas Supreme Court.

**Issues:** (1) Did the trial court have jurisdiction under the Texas Family Code to enforce the divorce decree and award damages for violations of the decree? (2) Did the trial court exceed its

enforcement authority by reallocating the entire proceeds from the sale of the marital residence to one spouse, thereby modifying the property division in the decree?

**Holding:** The Texas Supreme Court held that the trial court had jurisdiction to enforce the divorce decree and award damages for violations of the decree, but the trial court erred by awarding Debbie the entire proceeds from the sale of the marital home without determining the actual damages caused by Rodney’s violations. Under Texas Family Code Chapter 9, a court retains continuing jurisdiction to enforce a divorce decree but may not modify the substantive division of property in the decree. A court may award damages resulting from a party’s failure to comply with the decree, but those damages must correspond to the actual losses caused by the violation. The decree in this case allowed damages for missing or damaged property to be assessed against the breaching spouse and collected from that spouse’s share of the proceeds from the sale of the marital residence. Thus, awarding damages from the home-sale proceeds could be a permissible method of enforcement. However, the trial court failed to determine the fair market value of the damaged or missing property, as required by both the decree and the Family Code. Instead, it awarded Debbie 100% of the home-sale proceeds, effectively reallocating property without tying the award to proven damages. Because the damages were not properly calculated, the trial court exceeded its enforcement authority. Nevertheless, the trial court still had jurisdiction to enforce the decree, so the court of appeals erred by dismissing the case for lack of jurisdiction rather than remanding for further proceedings. The Supreme Court reversed the court of appeals’ judgment and remanded the case to the trial court for further proceedings.

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## **-Modification**

[IN THE INTEREST OF B.S. AND A.S., CHILDREN](#), No. 13-25-00130-CV, [2026 WL 616055](#) (Tex. App. Mar. 5, 2026)

***Trial court lacks jurisdiction in a post-divorce modification proceeding to transfer control of education savings accounts previously awarded in the divorce decree because doing so constitutes an impermissible modification of the decree’s substantive property division.***

**Facts:** Crystal Solomon and Dusty Ray Solomon divorced in 2020 and were appointed joint managing conservators of their two children. The divorce decree awarded Crystal the “sole and exclusive control” of two 529 education savings accounts established for the children and awarded her various financial assets registered in her name as part of the property division. In 2023, Dusty filed a petition to modify the parent–child relationship, initially seeking the exclusive right to designate the children’s primary residence. Crystal counter-petitioned seeking increased child support and different visitation terms. During the proceedings, disputes arose concerning control and use of the children’s 529 accounts and other education-related funds. Dusty argued the divorce decree was unclear and sought an order clarifying that the accounts must be used only for the children’s educational expenses and that he should share control of them. After the hearing, the trial court entered a judgment that: (1) granted Dusty the exclusive right to designate the children’s residence, and (2) transferred “sole and exclusive control” of the

529 accounts to Dusty, while ordering that the funds be used solely for the children's benefit. Crystal appealed, arguing the trial court lacked jurisdiction to alter the ownership or control of those accounts because they had already been awarded to her in the divorce decree as part of the property division.

**Issues:** (1) Did the trial court have jurisdiction in a post-divorce modification proceeding to transfer control of the children's 529 education accounts from Crystal to Dusty? (2) Did the order transferring control of the accounts and restricting their use constitute an impermissible modification of the divorce decree's property division?

**Holding:** The 13<sup>th</sup> Court of Appeals affirmed the judgment in part but reversed and rendered in part, holding that the trial court lacked jurisdiction to transfer control of the 529 accounts or impose new restrictions on their use because doing so altered the substantive property division contained in the divorce decree. Under Texas Family Code § 9.007, a court may clarify or enforce a property division but cannot modify the substantive division of property after the divorce becomes final. By transferring "sole and exclusive control" of the 529 accounts to Dusty and limiting how the funds could be used, the trial court materially altered the decree's property division, which it had no jurisdiction to do.

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## -Parental Presumption

[Rain Levy Minns Udall, Appellant v. Michael Minns, Appellee](#), No. 03-24-00064-CV, [2026 WL 259618](#) (Tex. App. Jan. 30, 2026)

### ***Maternal grandparent able to overcome parental presumption***

**Facts:** Mother had sole custody of her three minor children following a prior divorce. In 2021, CPS became involved after reports that Mother disciplined the children by forcing them to work outside for long hours, sleep outdoors overnight (sometimes without shelter and in extreme weather), restricting school access, and engaging in verbally and emotionally abusive behavior. One child attempted suicide; the other two expressed suicidal ideation. Maternal grandfather intervened, filed an original SAPCR, and obtained temporary sole managing conservatorship. After extensive proceedings, including psychological evaluations, therapist testimony, guardian ad litem reports, and in-camera interviews of the children—the trial court appointed Grandfather sole managing conservator, limited Mother's possession, ordered child support and attorney's fees, and required therapeutic education for the children regarding Mother's mental health.

**Issues:** (1) Did the trial court lack jurisdiction because the SAPCR was filed in a different Travis County district court than the original divorce court? (2) Did Grandfather have standing under Texas Family Code § 102.004(a)(1)? (3) Did the evidence rebut the parental presumption and support appointing a nonparent as sole managing conservator? (4) Did the trial court abuse its discretion in limiting Mother's possession, ordering child support and attorney's fees, and requiring counseling related to Mother's mental health?

**Holding:** Affirmed on all issues. The 3<sup>rd</sup> Court of Appeals held as follows: (1) Jurisdiction: Travis County’s central-docket system allows any district judge to act for the court with continuing, exclusive jurisdiction; the orders were not void. (2) Standing: Grandfather established standing by a preponderance of the evidence showing that the children’s present circumstances at filing would significantly impair their physical health or emotional development. (3) Parental Presumption: Substantial evidence—including abusive discipline practices, serious mental-health harm to the children, expert testimony, and the children’s own statements—supported the finding that appointing Mother as managing conservator would significantly impair the children, rebutting the fit-parent presumption. (4) Discretionary Orders: The trial court acted within its discretion in restricting possession, ordering child support and attorney’s fees, and requiring therapeutic education tailored to the children’s needs and Mother’s mental-health issues. Affirmed.

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## - Premarital Agreements

[Henry Hutcherson III, Appellant v. Tina Hutcherson, Appellee](#), No. 03-24-00297-CV, [2026 WL 775420](#) (Tex. App. Mar. 19, 2026)

***Valid premarital agreement controls property division and precludes a “just and right” division inconsistent with its terms - spousal maintenance may still be awarded if statutory requirements are met.***

**Facts:** Husband and Wife entered into a premarital agreement (PMA) before marriage that defined separate property and required that, upon divorce, each party receive one-half of the community estate. Husband’s business and most assets were designated as his separate property, and the PMA limited his required “salary” contribution to the community. During the marriage, the parties lived an extremely affluent lifestyle funded largely by Husband’s separate-property business. Wife did not work for decades, relied on Husband for finances, and had minimal assets at divorce. At divorce, the trial court found the PMA valid and enforceable, awarded Wife a \$900,000 judgment as part of the property division, and ordered \$5,000/month spousal maintenance for 10 years. Husband appealed, challenging both the property award and spousal maintenance.

**Issues:** (1) Did the trial court abuse its discretion by awarding Wife a \$900,000 judgment despite a valid PMA requiring equal division of the community estate? (2) Was the \$900,000 award supported by reimbursement or constructive fraud theories? (3) Did the trial court abuse its discretion in awarding spousal maintenance (amount, eligibility, and duration)?

**Holding:** The 3<sup>rd</sup> Court of Appeals affirmed in part and reversed in part. The court held that the trial court abused its discretion by awarding the \$900,000 judgment. A valid and enforceable PMA controls, and the trial court lacked authority to make a “just and right” division inconsistent with the agreement. There was no evidence to support reimbursement or constructive fraud on

the community. The spousal maintenance award of \$5,000/month was affirmed. The evidence showed that Wife lacked sufficient property to meet her minimum reasonable needs, had limited earning capacity after decades out of the workforce, and exercised diligence in seeking employment/training. The duration of maintenance (up to 10 years) was within statutory limits. The case was remanded to the trial court for a new division of Hank and Tina's community estate in accord with the terms of the parties' PMA.

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## - Separate Property

[Theodore Stanley Landry, Petitioner, v. Janelle Nicole Landry, Respondent](#), No. 24-0910, [2026 WL 784584](#) (Tex. Mar. 20, 2026)

***Unrebutted expert tracing evidence can satisfy the clear-and-convincing standard for separate property, and appellate courts may not reweigh that evidence or substitute their judgment for the trial court.***

**Facts:** Husband and Wife were married in 2003 and divorced in 2020. Before the marriage, Husband had opened two Charles Schwab investment accounts (in 1992 and 1995). At trial, Husband presented expert testimony (CPA Bryan Rice) tracing the funds in those accounts through 16 years of account statements. The expert concluded the accounts remained Husband's separate property, despite some income generation during the marriage, because any community income was withdrawn as earned and did not alter the underlying principal. Although the expert did not review four months of statements (July–October 2018), those statements were in the record, and he testified they would not change his conclusions. Wife presented no admissible rebuttal evidence (her expert was excluded as untimely). The trial court found the accounts were Husband's separate property. The court of appeals twice reversed—first for allegedly missing evidence (which was actually in the record), and on remand for rejecting the expert's tracing analysis.

**Issues:** (1) Was there legally sufficient evidence to support the trial court's finding—by clear and convincing evidence—that the investment accounts were Husband's separate property? (2) Did the court of appeals improperly substitute its judgment for that of the trial court in evaluating expert testimony and the evidentiary record?

**Holding:** The Texas Supreme Court reversed the court of appeals and rendered judgment reinstating the trial court's judgment. The court held that the husband met his burden to prove separate property through clear and convincing tracing evidence. The unrebutted expert testimony, supported by extensive account records, was legally sufficient. The court of appeals erred by disregarding credited expert testimony and reweighing the evidence. Appellate courts may not second-guess the trial court's role as factfinder, particularly on credibility and weight of the evidence.

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## - Termination of Parental Rights

[IN THE INTEREST OF P.Y., A CHILD](#), No. 14-25-00696-CV, [2026 WL 363515](#) (Tex. App. Feb. 10, 2026)

**Father failed to preserve complaints regarding statutory findings and that legally and factually sufficient evidence showed his criminal conduct and incarceration endangered the child and termination was in the child's best interest.**

**Facts:** The Texas Department of Family and Protective Services removed P.Y., a one-year-old child, from her maternal grandmother's home after allegations of sexual abuse by the grandmother's boyfriend and discovery of drugs accessible to the child. Both parents were incarcerated at the time of removal, and the child was placed with a maternal aunt, who provided a safe and stable home and wished to adopt her. Father had a significant criminal history, including juvenile aggravated robbery, a felony evading arrest charge after the child's birth, violations of supervision, and continued incarceration with a projected release date in 2026. Because of his incarceration, Father had never met the child, provided care, or completed services required for reunification. The trial court terminated Father's parental rights under Family Code § 161.001(b)(1)(E) (endangerment) and (Q) (incarceration) and found termination was in the child's best interest. Father appealed, challenging the adequacy of the trial court's findings and the sufficiency of the evidence.

**Issues:** (1) Did Father preserve his complaint that the trial court failed to make sufficiently specific written findings regarding reasonable reunification efforts and continuing danger under Family Code § 161.001(f) and (g)? (2) Was there legally and factually sufficient evidence to support the trial court's findings that: (a) The Department made reasonable efforts to reunify Father and the child; (b) A continuing danger prevented the child's return; (c) Father engaged in conduct that endangered the child under § 161.001(b)(1)(E); and (d) Termination was in the child's best interest?

**Holding:** Affirmed. The 14<sup>th</sup> Court of Appeals held that Father failed to preserve his complaint regarding the specificity of the trial court's findings because he did not object or request additional findings in the trial court. The court further held that legally and factually sufficient evidence supported the trial court's findings that the Department made reasonable reunification efforts, Father engaged in a course of criminal conduct and incarceration that endangered the child, and termination of Father's parental rights was in the child's best interest. Accordingly, the court affirmed the termination order.

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[D. F. v. Texas Dep't of Fam. & Protective Servs.](#), No. 03-25-00738-CV, [2026 WL 482451](#) (Tex. App. Feb. 20, 2026)

**Clear and convincing evidence supported termination of both parents rights – best interest standard met as well**

**Facts:** The Texas Department of Family and Protective Services removed two children—Riley and Ricky—from their mother after she was arrested for possession of methamphetamine and was found to be homeless, unstable, and struggling with substance abuse. Evidence showed Mother had a long history of drug addiction beginning in childhood, repeated relapses, unstable housing, and involvement in abusive relationships. At one point the children were reportedly

living in a car, and Riley had to care for her younger brother when Mother left them alone. The children were placed with their maternal uncle and aunt, who had previously cared for them and provided a stable home. Testimony showed the children were thriving in that placement, receiving therapy, attending school, and having their medical and emotional needs met. Father was incarcerated in federal prison following convictions for racketeering conspiracy and attempted murder in aid of racketeering, resulting in a life sentence. Because of his imprisonment he had little contact with the child and could not provide care. After a jury trial, the trial court terminated Mother's parental rights to both children and Father's rights to Riley, finding statutory predicate grounds for termination and that termination was in the children's best interests. Both parents appealed.

**Issues:** (1) Did the Department prove it made reasonable efforts to return the children to Mother as required by Texas Family Code § 161.001(f)–(g)? (2) Was the evidence legally and factually sufficient to prove that termination of Mother's parental rights was in the children's best interest? (3) Did the trial court improperly extend the statutory dismissal deadline for the case? (4) Did the Department prove predicate grounds for termination of Father's rights under Family Code § 161.001(b)(1), particularly subsections (D), (E), and (P), after a prior termination case had failed? (5) Was the evidence was sufficient to support the best-interest finding as to termination of Father's rights? (6) Did the Department make reasonable efforts to prevent termination of Father's parental rights?

**Holding:** The 3<sup>rd</sup> Court of Appeals affirmed the termination order, holding that the Department presented clear and convincing evidence supporting the statutory grounds for termination and that termination of both parents' rights was in the children's best interests. The court also held that the Department made reasonable reunification efforts, the trial court properly extended the dismissal deadline, and Father's escalating criminal convictions and incarceration supported termination.

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## GOVERNMENTAL ENTITIES

### -Agency/Contract Waiver

ARANSAS COUNTY, TEXAS, Appellant, v. WESTERN STEEL COMPANY AND T2J PARTNERS LLC D/B/A FPS RECOVERY LLC, Appellees. ARANSAS COUNTY, TEXAS, Appellant., No. 13-25-00148-CV, 2026 WL 691884 (Tex. App. Mar. 12, 2026)

**County waived governmental immunity where its commissioners court approved an agreement authorizing a disaster-recovery entity to repair county property, thereby appointing the entity as its agent to contract for repairs; county could also face liability for failure to require a statutory payment bond on the public works project.**

**Facts:** After Hurricane Harvey damaged multiple properties in Aransas County, including the Aransas County Airport and a Rockport-Fulton ISD administration building, the County sought coverage through the Regional Pool Alliance (RPA), an intergovernmental entity created through

an interlocal agreement to help governmental entities pool resources and obtain insurance-type disaster coverage. The County annually executed a “Confirmation of Coverage” with the RPA and paid premiums for disaster coverage. The confirmation allowed the RPA, after a loss, either to pay the value of the damage or perform the repairs itself. Following Hurricane Harvey, the RPA chose to repair the damaged properties rather than pay cash. The RPA hired T2J Partners LLC as the general contractor for repair work at County properties. Western Steel Company was subcontracted by T2J to perform work at airport hangars. Western Steel and T2J later alleged they were not paid for the work performed. Western Steel sued both T2J and Aransas County for breach of contract and related claims, while T2J filed claims against the County alleging breach of contract and violations of the Texas Prompt Payment Act. The County filed pleas to the jurisdiction, asserting governmental immunity, arguing that, it never joined the RPA or appointed it as its agent, the RPA acted independently and the County had no contractual relationship with the contractors. The trial court denied the County’s pleas, and the County filed accelerated interlocutory appeals.

**Issues:** (1) Did the County waive governmental immunity because the RPA acted as the County’s statutory agent when it contracted with T2J to repair County buildings under Texas Local Government Code § 262.001? (2) Was the County subject to liability under Texas Government Code Chapter 2253 for failure to require a payment bond on a public works project?

**Holding:** The 13<sup>th</sup> Court of Appeals affirmed the trial court’s denial of the County’s pleas to the jurisdiction. The court held that the County waived governmental immunity because its commissioners court approved the insurance coverage confirmation with the RPA, which authorized the RPA to repair County property. By granting that authority, the County effectively appointed the RPA as its agent to contract for repairs. Because the RPA hired T2J to perform those repairs, the contract bound the County, and immunity was waived for T2J’s breach-of-contract claim. Because the RPA acted as the County’s agent when it hired T2J as a contractor for public repairs, the County was treated as having made a public works contract. Under Texas Government Code §2253, the County therefore had a duty to require a payment bond from the contractor. Its failure to do so potentially made it liable like a surety to unpaid subcontractors, including Western Steel.

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## **-Civil Investigative Demand**

[Off. of Att’y Gen. v. PFLAG, Inc.](#), No. 24-0892, [2026 WL 706010](#) (Tex. Mar. 13, 2026)

***The Attorney General may enforce a DTPA civil investigative demand where there is a reasonable basis to believe the recipient possesses information relevant to a potential deceptive-practice investigation, and courts may not block the CID based on their own view of the investigation’s merits.***

**Facts:** After Texas enacted SB 14, which prohibits certain gender-transition treatments for minors, the Texas Attorney General began investigating whether medical providers were violating the statute and disguising the treatments as other conditions when billing insurers, potentially constituting deceptive practices under the Texas Deceptive Trade Practices Act

(DTPA). During separate litigation challenging SB 14, PFLAG, a nonprofit advocacy organization, submitted an affidavit from its executive director describing conversations with families of transgender minors about “contingency plans” and “alternative avenues to maintain care in Texas.” Believing that these statements suggested the possibility that some providers might be continuing prohibited treatments while concealing them through deceptive billing practices, the Attorney General issued a Civil Investigative Demand (CID) under the DTPA seeking documents from PFLAG related to the affidavit and communications about obtaining medical care. PFLAG filed suit in Travis County district court to set aside or modify the CID, arguing that it violated constitutional rights and sought irrelevant or private information. The trial court issued a declaratory judgment and injunction blocking most of the CID and preventing further investigation. The Attorney General directly appealed to the Texas Supreme Court under the DTPA’s provision allowing direct review of CID enforcement orders.

**Issues:** (1) Did the district court err by blocking enforcement of the Attorney General’s civil investigative demand issued during a DTPA investigation? (2) Did the Attorney General have a reasonable basis to believe that PFLAG might possess documents relevant to an investigation into deceptive practices related to SB 14? (3) Are the requested documents properly discoverable and do privacy or constitutional concerns justify setting aside the CID?

**Holding:** The Texas Supreme Court reversed the district court’s declaratory judgment and injunction, holding that the Attorney General had a reasonable basis to believe PFLAG might possess documents relevant to a DTPA investigation, and that most of the CID’s document requests were properly tailored and enforceable. The DTPA authorizes the Attorney General to issue a civil investigative demand whenever the office believes a person may possess documents relevant to a possible DTPA violation; the statute requires only a reasonable basis for that belief, not proof. The district court improperly substituted its own interpretation of PFLAG’s affidavit for the Attorney General’s reasonable interpretation that the statements might indicate efforts to continue prohibited treatments in Texas. Courts reviewing CIDs should function similarly to courts resolving discovery disputes—ensuring requests are relevant and not abusive—but not second-guessing the wisdom of an investigation. Privacy concerns were mitigated because the Attorney General agreed to allow redaction of identifying information for families and minors, and the DTPA limits disclosure of materials obtained through a CID. Most document requests were reasonably tailored to the investigation, though the Court found insufficient justification for some requests related to organizational documents. The case was remanded, with instructions that PFLAG must produce responsive documents subject to recognized privileges and appropriate redactions.

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## **-Public Information Act**

TEXAS DEPARTMENT OF PUBLIC SAFETY AND CHRISTINA MITCHELL, IN HER OFFICIAL CAPACITY AS 38TH JUDICIAL DISTRICT ATTORNEY, Appellants v.

[TEXAS TRIBUNE: Appellees](#), No. 15-24-00010-CV, [2026 WL 628030](#) (Tex. App. Mar. 6, 2026)

***Evidence that disclosure could interfere with an ongoing criminal investigation or prosecution raises a fact issue under the Texas Public Information Act's law-enforcement exception, precluding summary judgment compelling disclosure.***

**Facts:** After the May 24, 2022 mass shooting at Robb Elementary School in Uvalde, multiple national and state news organizations submitted requests to the Texas Department of Public Safety (DPS) under the Texas Public Information Act (PIA) seeking extensive records related to the shooting and the law-enforcement response. The requests sought a broad range of materials, including 911 calls and radio traffic, body-camera and surveillance video, emails, texts, and communications among officers, investigative reports and evidence logs, personnel information about responding officers, and records relating to earlier investigations involving the shooter. The responsive material totaled approximately 2.8 terabytes of data. DPS released some information but withheld most of it, asserting the law-enforcement exception under the PIA because disclosure could interfere with ongoing criminal investigations and potential prosecutions related to the shooting. Several media organizations filed a mandamus action in district court to compel disclosure. The trial court granted summary judgment for the media organizations and ordered DPS to release the requested records with certain redactions. DPS and the Uvalde District Attorney appealed.

**Issues:** (1) Did the trial court err by ordering disclosure of records that did not exist or were not in DPS's possession when the PIA requests were made? (2) Did the trial court err in granting summary judgment because DPS presented evidence raising a fact issue that the law-enforcement exception under the PIA applied? (3) Did the trial court err by ordering the release of records obtained from federal agencies that are exempt from disclosure under federal law? (4) Did the trial court err in striking the Uvalde District Attorney's plea in intervention?

**Holding:** The 15<sup>th</sup> Court of Appeals affirmed in part, reversed in part, and remanded. The court held that the PIA does not require disclosure of records that did not exist or were not in the agency's possession at the time the request was made, so summary judgment compelling disclosure of those materials was improper. The court held that DPS produced more than a scintilla of evidence that disclosure could interfere with an ongoing criminal investigation or prosecution. Testimony from the district attorney and DPS officials indicated that releasing the information could influence witnesses, compromise investigative strategies, or impair potential prosecutions. This evidence created a fact issue, making summary judgment improper. The trial court also erred by ordering disclosure of records obtained from federal agencies that are exempt from disclosure under federal law. The court affirmed the trial court's decision striking the district attorney's plea in intervention, concluding she had not demonstrated a sufficient justiciable interest to intervene in the case.

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## **-Street Closures**

[CITY OF KEMAH, TEXAS, Appellant v. MERGER THREE, LLC; VOODOO HUT, LLC; 605, LLC; BK STEPHENS INVESTMENT, LLC; AND THE GRECO, LLC, Appellees](#), No. 14-24-00829-CV, [2026 WL 740665](#) (Tex. App. Mar. 17, 2026)

**Restricting a street to pedestrians and emergency vehicles is not a statutory “closure,” defeating a temporary injunction for lack of probable right to relief.**

**Facts:** The City of Kemah passed a resolution restricting a portion of Sixth Street to pedestrians and emergency vehicles only for ten years. The City installed signage, striping, and physical barriers preventing ordinary vehicular traffic. Property owners and tenants along the street (“Occupants”) sued, alleging the City effectively closed the street without obtaining consent of abutting landowners, as required by statute. They sought declaratory and injunctive relief, and alternatively asserted takings claims. The trial court granted a temporary injunction, ordering the City to restore the prior status quo and reopen the street. The City appealed.

**Issues:** (1) Did the trial court have subject-matter jurisdiction to grant injunctive and declaratory relief against the City? (2) Did the trial court abuse its discretion in granting a temporary injunction (i.e., whether plaintiffs showed a probable right to relief)? (3) Does restricting a street to pedestrians and emergency vehicles constitute a “closure” under Texas law requiring landowner consent?

**Holding:** The 14<sup>th</sup> Court of Appeals held that the trial court had subject-matter jurisdiction over the declaratory and injunctive claims challenging the ordinance’s validity. The Uniform Declaratory Judgments Act waives governmental immunity for claims challenging the validity of an ordinance. The dispute is civil in nature; the ordinance is not a penal statute. , the trial court abused its discretion in granting the temporary injunction because the plaintiffs failed to show a probable right to relief. Relying on precedent (*Jordan v. Landry’s*), the court held that limiting a street to pedestrian and emergency use is a regulation, not a closure. Because the street remains open for some vehicular use (emergency vehicles), it is not “vacated, abandoned, or closed .” Without a statutory “closure,” the Occupants lacked a viable claim requiring landowner consent. Therefore, they failed to establish a probable right to recover, a prerequisite for a temporary injunction. Temporary injunction reversed, dissolved, and case remanded.

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## INSURANCE LAW

### -Bifurcated Trial

IN RE COVINGTON SPECIALTY INSURANCE COMPANY AND JOSE ROCHIN, No. 09-25-00507-CV, 2026 WL 40083 (Tex. App. Jan. 6, 2026)

**Insurer entitled to bifurcated trial of contractual claims and extracontractual claims**

**Facts:** Orange Gospel Assembly sued its insurer, Covington Specialty Insurance Company, and Covington’s adjuster, Jose Rochin, for damages arising from Hurricane Laura. Orange Gospel alleged Covington failed to pay the full amount owed for building and personal property damage and asserted both contractual claims (breach of the insurance policy) and extracontractual claims (Insurance Code violations, bad faith, misrepresentations, and unfair settlement practices).

Covington and Rochin denied liability, asserted policy defenses and conditions precedent, and moved for a bifurcated trial so that contractual claims would be tried first, followed—if necessary—by extracontractual claims. The trial court denied the motion to bifurcate. Covington and Rochin sought mandamus relief.

**Issues:** (1) Did the trial court abuse its discretion by denying the insurer’s motion to bifurcate the trial of contractual and extracontractual insurance claims? (2) Was mandamus relief appropriate because the insurer lacked an adequate remedy by appeal?

**Holding:** Yes, as to both issues. The Ninth Court of Appeals conditionally granted mandamus relief, holding that the trial court abused its discretion by denying bifurcation. Because Orange Gospel alleged no independent injury, it was required to establish entitlement to policy benefits before recovering extracontractual damages, and trying all claims together would unfairly prejudice the insurer by forcing it to choose between defending contractual claims and presenting settlement-related evidence relevant to bad faith. The court ordered the trial court to vacate its order and grant a bifurcated trial. Reversed.

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## **-Coverage Dispute**

[Neeley v. Lyft, Inc.](#), No. 11-25-00065-CV, [2026 WL 387389](#) (Tex. App. Feb. 12, 2026)

**Coverage properly denied because plaintiff’s personal auto policy excluded coverage while logged into the Lyft app, and Lyft’s commercial policy applied only after a ride was accepted**

**Facts:** Robey Neeley, a Lyft driver, rear-ended another vehicle while logged into the Lyft app but not transporting or en route to pick up a passenger. His personal auto insurer, Liberty Mutual, denied his collision claim based on a policy exclusion for vehicles being used while logged into a transportation network platform. Lyft’s commercial policy also did not provide collision coverage because it applied only when a driver had accepted a ride and was transporting or picking up passengers. Neeley sued Lyft and Liberty Mutual for breach of contract, violations of the Texas Insurance Code and DTPA, fraud, and conspiracy, alleging they misrepresented or failed to disclose a coverage gap. The trial court granted summary judgment for both defendants, and Neeley appealed.

**Issues:** (1) Did Liberty Mutual breach its insurance contract or violate the Texas Insurance Code and DTPA by denying collision coverage when Neeley was logged into the Lyft app but not transporting a passenger? (2) Did Lyft or Liberty Mutual commit fraud or DTPA violations by misrepresenting or failing to disclose the existence of a coverage gap? (3) Was Lyft entitled to summary judgment on Neeley’s failure-to-disclose fraud and DTPA nondisclosure claims? (4) Could Neeley’s civil conspiracy claims survive summary judgment?

**Holding:** The 11<sup>th</sup> Court of Appeals held that Liberty Mutual properly denied coverage because Neeley’s personal policy excluded coverage while logged into the Lyft app, and Lyft’s commercial policy applied only after a ride was accepted. The court affirmed summary judgment in favor of Liberty Mutual on all claims and in favor of Lyft on most claims, but reversed

summary judgment on Neeley’s failure-to-disclose fraud claim and DTPA nondisclosure claim against Lyft because Lyft’s motion did not address those claims. The case was remanded for further proceedings on those limited claims.

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[Privilege Underwriters Reciprocal Exch. v. Mankoff](#), No. 24-0132, [2026 WL 406028](#) (Tex. Feb. 13, 2026)

***The term “windstorm” included a tornado – windstorm deductible applied***

**Facts:** The Mankoff’s home was damaged by a tornado in 2019. Their homeowners insurance policy contained a large deductible for losses caused by “Windstorm or Hail,” but the policy did not define the term “windstorm.” The insurer applied the windstorm deductible and paid only part of the claim. The Mankoffs sued for breach of contract, arguing that a tornado was not a windstorm and therefore the deductible did not apply. Both parties filed cross-motions for summary judgment. The trial court granted summary judgment for the insurer, but the court of appeals reversed, holding that the term “windstorm” was ambiguous and should be construed in favor of the insureds. The insurer petitioned the Texas Supreme Court for review.

**Issues:** (1) Was the undefined term “windstorm” in a homeowners insurance policy ambiguous? (2) Does the ordinary meaning of “windstorm” include a tornado, such that the windstorm deductible applies to tornado damage?

**Holding:** The Texas Supreme Court held that the term “windstorm” is not ambiguous and that its ordinary meaning unambiguously includes a tornado. Accordingly, the windstorm deductible applied to the insureds’ loss, and the insurer was entitled to summary judgment. The Court reversed the court of appeals and reinstated the trial court’s judgment in favor of the insurer.

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[HOUSTON LIVESTOCK SHOW AND RODEO, INC., Appellant v. NATIONAL FIRE & MARINE INSURANCE COMPANY, Appellee](#), No. 14-24-00724-CV, [2026 WL 873050](#) (Tex. App. Mar. 31, 2026)

***COVID-19-related business losses were excluded under the policy’s contamination exclusion, defeating both contract and extra-contractual claims.***

**Facts:** Houston Livestock Show and Rodeo, Inc. (HLSR), an additional insured under a commercial property insurance policy, sought coverage for business-interruption losses after the 2020 Houston Rodeo was shut down early due to a COVID-19-related government quarantine order affecting NRG Park. HLSR alleged millions in lost income and sued the insurer, National Fire & Marine Insurance Company, for breach of contract and extra-contractual claims. The insurer denied coverage, relying in part on a policy exclusion for losses caused by “pollutants or contaminants,” which expressly included viruses. The trial court granted summary judgment for the insurer on both coverage and extra-contractual claims.

**Issues:** (1) Did the insurance policy provide coverage for COVID-19-related business losses, or whether the contamination/pollution exclusion barred coverage? (2) Did the trial court properly grant summary judgment dismissing extra-contractual claims (bad faith, Insurance Code violations) in the absence of coverage?

**Holding:** The 14<sup>th</sup> Court of Appeals affirmed summary judgment for the insurer. The court held that the policy's contamination exclusion unambiguously applied because COVID-19 is a virus and falls within the definition of a contaminant or pollutant. Therefore, losses caused by the virus—including shutdown orders—were excluded from coverage. The exclusion applied to the entire policy, including business-interruption provisions, and was not limited by other clauses. Because there was no coverage and no independent injury alleged, all extra-contractual claims failed as a matter of law.

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# JUVENILE LAW

## -Certification

IN THE MATTER OF A.P., Appellant, No. 01-25-00423-CV, 2025 WL 3454615 (Tex. App. Dec. 2, 2025)

**Seriousness of a series of violent robberies—including a capital murder—and corroborating evidence provided sufficient basis for waiver of juvenile jurisdiction and probable cause.**

**Facts:** The State filed seven juvenile petitions against A.P., then 15 years old, involving four separate robbery incidents over a three-day period in January 2024. Six petitions alleged aggravated robbery and one alleged capital murder following the fatal shooting of a 76-year-old victim during a sidewalk robbery. Multiple eyewitnesses identified A.P. from photospreads; surveillance videos corroborated his presence with a co-actor identified as the shooter. A.P. had a significant delinquency history including prior aggravated robberies and ongoing community supervision violations. Psychological evaluations showed conflicting IQ results (52 on the most recent test, but 76–89 previously), with concerns for malingering; experts testified he understood right from wrong and was competent. The juvenile court waived jurisdiction and transferred the seven charges to criminal district court under Texas Family Code § 54.02.

**Issues:** (1) Was the evidence legally and factually sufficient to support the juvenile court's finding that the welfare of the community required A.P.'s transfer to criminal court? (2) Did sufficient probable cause exist to believe A.P. committed the offense of capital murder?

**Holding:** Yes as to both issues. The 1<sup>st</sup> Court of Appeals held that the seriousness of the violent firearm-based offenses and A.P.'s history supported waiver of juvenile jurisdiction. The court rejected the argument that one low IQ score rendered A.P. too immature or unsophisticated for criminal proceedings, noting transfer may be justified on either the seriousness of the offense or the juvenile's background. Sufficient probable cause was established with surveillance footage,

eyewitness identifications, evidence tying A.P. and his co-actor to two other closely timed robberies, and recovery of the murder victim's property at a location connected to A.P. This evidence constituted a sufficient basis to believe he acted as a party to capital murder.

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## **-Judicial Disqualification**

IN THE MATTER OF B.P., JR., A JUVENILE, No. 06-25-00050-CV, 2025 WL 3533274 (Tex. App. Dec. 10, 2025)

***A juvenile judge who previously prosecuted the child in an unrelated, earlier case was not constitutionally disqualified from presiding over a later adjudication and transfer proceeding arising from new delinquent conduct.***

**Facts:** B.P., a juvenile, was adjudicated in 2021 for delinquent conduct (unauthorized use of a vehicle and burglary of a habitation), placed on probation, and later committed to the Texas Juvenile Justice Department (TJJJ) after a probation revocation. Then-ADA Konczak personally prosecuted B.P. in those proceedings and appeared at his 2022 revocation hearing. Konczak left the DA's office and became the juvenile court judge on January 1, 2023. After B.P. was released and discharged from TJJJ in December 2023, he was again alleged to have committed new delinquent conduct—two aggravated robberies on January 3, 2024—under the same cause number. Judge Konczak presided over the 2024 adjudication and disposition hearing, accepted B.P.'s plea of true, and imposed a ten-year determinate sentence. In May 2025, the judge ordered B.P.'s transfer from TJJJ to TDCJ. B.P. appealed, arguing the judge was constitutionally disqualified because she had acted as counsel for the State in his 2021–2022 proceedings, and that the 2024 and 2025 orders were therefore void.

**Issues:** (1) Is a judge constitutionally disqualified under Tex. Const. art. V, § 11 or Rule 18b(a)(1) when, as a prosecutor, she previously handled an earlier juvenile matter involving the same child? (2) Did the earlier 2021–2022 case and the 2024–2025 aggravated-robbery case constitute “the same case,” the same “matter in controversy,” or arise from the “same set of operative facts” for purposes of mandatory disqualification?

**Holding:** No on both issues. The 6<sup>th</sup> Court of Appeals affirmed both the 2024 disposition order and the 2025 transfer order. The judge was not disqualified, because the 2024 aggravated-robbery adjudication and the 2025 transfer proceeding were based on new and different conduct, separate from the 2021 offenses for which she had acted as prosecutor. The court rejected the argument that all juvenile matters under a single cause number constitute the “same case.” Disqualification applies only when the judge, as former counsel, participated in the same case or a case arising from the same operative facts—not merely to any prior prosecution of the same juvenile. Because the 2024 charges involved new incidents, new victims, and separate petitions, they constituted a distinct matter, and the judge was constitutionally authorized to act. Affirmed.

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# PROPERTY LAW

## -Foreclosure

Soledad MORENO, Appellant v. Karen TIDWELL, Individually & as Indep. Ex'r of the Ests. of Robert L. Gibson Jr. & Mary Lou Gibson & Sharon Snow, Individually & as Indep. Ex'r of the Ests. of Robert L. Gibson Jr. & Mary Lou Gibson, Appellees, No. 04-24-00387-CV, 2026 WL 516451 (Tex. App. Feb. 25, 2026)

***In a wrongful-foreclosure challenge, notice requirements are satisfied when foreclosure notices are mailed by certified mail as required by statute—even if the borrower never actually receives them.***

**Facts:** Soledad Moreno purchased residential property in Uvalde County from Robert and Mary Lou Gibson in 2015 through an owner-financed transaction. The purchase price was \$85,000, consisting of a \$5,000 down payment and an \$80,000 promissory note secured by a deed of trust. The loan documents required Moreno to make monthly payments and pay property taxes on the property. Moreno made monthly payments but failed to pay the 2015 property taxes as required. The Gibsons eventually paid the taxes themselves. After Moreno remained in default, the trustee mailed a notice of default and intent to accelerate by certified mail, followed by notice of a foreclosure sale. In March 2017, the property was sold at a nonjudicial foreclosure sale, and the Gibsons' daughters, Karen Tidwell and Sharon Snow—who later became executors of their parents' estates—purchased the property. After the foreclosure, Moreno continued living in the home. Tidwell and Snow testified that they allowed Moreno to remain as a renter or to repurchase the property for \$75,000 if she obtained financing, but Moreno never obtained financing and eventually fell behind on rent. In 2022, Moreno sued Tidwell and Snow asserting numerous claims—including wrongful foreclosure, fraud, breach of contract, DTPA violations, and other tort claims—and sought to recover title to the property. The defendants denied the claims and sought possession of the property. After a bench trial, the trial court found the foreclosure valid, ruled that Moreno had no ownership interest after March 7, 2017, and entered judgment for the defendants. Moreno appealed.

**Issues:** (1) Was the foreclosure invalid because Moreno allegedly did not receive the notice of default and foreclosure? (2) Was the foreclosure improper because the lender failed to give separate notices of intent to accelerate and acceleration? (3) Did the defendants waive or abandon the foreclosure by accepting payments or allowing Moreno to remain in the property after the sale? (4) Did the parties reinstate the original purchase contract or form a new agreement allowing Moreno to repurchase the property? (5) Were Moreno's claims—particularly her wrongful-foreclosure claims - barred by the applicable limitations period?

**Holding:** The Fourth Court of Appeals affirmed the trial court's judgment. The court held that the foreclosure notice was valid. Under Texas Property Code §51.002, notice by certified mail is complete when deposited in the mail; actual receipt is not required, and the trustee's affidavit constituted prima facie evidence of service. No additional acceleration notice was required because the loan documents contained a clear waiver of notice of intent to accelerate and notice of acceleration. The evidence supported the trial court's finding that Moreno was in default for failing to pay property taxes, justifying foreclosure. The defendants did not waive or abandon the foreclosure by accepting payments after the sale because the evidence showed Moreno remained only as a renter. Moreno failed to prove the parties entered into a reinstatement agreement or revived the original sales contract. Moreno's wrongful-foreclosure claim was barred by the four-year statute of limitations, which began running on the date of the foreclosure sale in 2017. Accordingly, the court upheld the trial court judgment declaring the foreclosure valid and confirming title and possession in Tidwell and Snow.

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## **-Fraudulent Filings**

[Hargrave v. Lake CCC, Inc.](#), No. 11-24-00083-CV, [2026 WL 386850](#) (Tex. App. Feb. 12, 2026)

**Defendant knowingly filed fraudulent corporate records and deed attempting to transfer property without authority, and circumstantial evidence established intent to cause financial harm under Civil Practice and Remedies Code § 12.002.**

**Facts:** Lake CCC, Inc. (LCCC) owned country club property that had previously been placed in receivership and later reinstated under new corporate leadership. Johnnie Hargrave, who had no official affiliation with LCCC, filed multiple documents with the Texas Secretary of State falsely claiming authority to act on LCCC's behalf. These filings included an application to reinstate LCCC, a certificate of amendment naming himself as registered agent and changing the entity's address, and a general warranty deed purporting to transfer LCCC's property to another entity he controlled. Hargrave recorded the deed with the county clerk. LCCC and Brecha Roja Land Co. sued Hargrave under Texas Civil Practice and Remedies Code § 12.002 for filing fraudulent real property records and sought declaratory relief, statutory damages, and attorney's fees. The trial court granted summary judgment for the plaintiffs, awarded statutory damages and attorney's fees, and Hargrave appealed.

**Issues:** (1) Did the trial court err in granting summary judgment under Texas Civil Practice and Remedies Code § 12.002 for filing fraudulent real property records, particularly whether Hargrave had the requisite intent to cause injury? (2) Did the trial court abuse its discretion by awarding attorney's fees to the plaintiffs?

**Holding:** No. Affirmed on all issues. The 11<sup>th</sup> Court of Appeals held that the trial court properly granted summary judgment because the undisputed evidence established that Hargrave

knowingly filed fraudulent documents relating to real property with intent to cause injury, and Hargrave failed to present competent evidence creating a fact issue. The attorney's fee award was also proper. The judgment was affirmed.

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## **-Judicial Foreclosure**

KENNETH D. EICHNER, P.C., Appellant v. AARON K. CUMMINGS; REBECCA N. CUMMINGS, A/K/A REBECCA NORTHCUT DEZARN; LANMARK, INC.; ALGERITA FARMS, INC.; AND WALLACE CREEK FARMS, INC., Appellees, No. 14-24-00435-CV, 2026 WL 303050 (Tex. App. Feb. 5, 2026)

***Judicial foreclosure requires proof of a valid security interest, default, and ownership of the collateral by a party before the court.***

**Facts:** Kenneth D. Eichner, P.C., an accounting firm, provided tax and accounting services to Aaron Cummings, his wife Rebecca, and their business entities to assist with significant IRS tax liabilities. The parties entered into engagement agreements and later executed a Security Agreement granting Eichner a security interest in various assets, including real property and equipment, to secure payment of outstanding fees. The agreements granted Eichner security interests in multiple properties, including real estate in Brownwood and Conroe, Texas, as well as equipment and other assets. When the Cummings's failed to pay substantial outstanding balances, Eichner sued, seeking a money judgment and judicial foreclosure of its security interests in the pledged collateral. After a bench trial, the trial court awarded Eichner a money judgment and attorney's fees but denied its request to foreclose on the collateral. Eichner appealed, arguing that it had conclusively proved its right to judicial foreclosure under the security agreements.

**Issues:** (1) Did the trial court err in denying Eichner's request for judicial foreclosure? (2) Did the evidence conclusively establish Eichner's right to foreclose on specific collateral, particularly the Brownwood real property? (3) Did the one-satisfaction rule or other defenses bar Eichner from obtaining both a money judgment and foreclosure?

**Holding:** The 14<sup>th</sup> Court of Appeals affirmed in part and reversed and remanded in part. The court held that Eichner failed to conclusively prove its entitlement to foreclose on the equipment and certain real properties (including the Conroe properties). The evidence did not conclusively establish that the defendants still owned these properties or that Eichner had a valid enforceable security interest against current owners, which is required for judicial foreclosure. The court held that Eichner conclusively proved its right to judicial foreclosure on the Brownwood property. The Security Agreement clearly granted a security interest in that property, Eichner properly perfected its interest, the property owner was a party to the case, and the defendants were in default. The trial court therefore erred in refusing foreclosure as to that property. The court rejected the argument that the one-satisfaction rule barred foreclosure in addition to a money judgment. A creditor may obtain both remedies, and any foreclosure proceeds must simply be credited against the judgment to prevent double recovery.

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# -Landlord/Tenant

SOON HWA LEE AND ALICE LEE CHAN, AS EXECUTRIX OF THE ESTATE OF AN SIK LEE, Appellants v. SANG KU PARK, Appellee, --- S.W.3d ---- (Tex.App.-Hous. (1 Dist.), 2026)

***Failure to timely appeal a temporary injunction bars later challenges to its propriety through a motion to dissolve; absent changed circumstances, denial of the motion to dissolve is not an abuse of discretion.***

**Facts:** This is a commercial landlord-tenant dispute. Soon Hwa Lee and Alice Lee Chan (as executrix of the estate of An Sik Lee) own the property and leased it to Sang Ku Park. The lease contains language granting the tenant an option to purchase the property at the end of the term. In August 2023, the 125th District Court signed a temporary injunction that prohibits the landlords from taking any steps to evict the tenant. The order set the case for trial on the two-week docket beginning in November 2023 and stated that the injunction would remain in effect until trial. The case has never gone to trial; the trial setting has been repeatedly postponed. The landlords could have taken an immediate interlocutory appeal of the original injunction order (Tex. Civ. Prac. & Rem. Code § 51.014(a)(4)), but they did not. Approximately six months later, they filed a motion to dissolve the injunction, arguing that the tenant had never proved irreparable injury. The trial court denied the motion. The landlords then brought this interlocutory appeal from the denial of dissolution.

**Issues:** (1) Did the trial court err by denying dissolution because the tenant failed to prove irreparable injury at the original injunction hearing? (2) Did the trial court lack authority to enjoin the landlords from taking any action to evict the tenant (i.e., did the injunction improperly intrude on matters belonging exclusively to the justice court)?

**Holding:** The First Court of Appeals affirmed the trial court's order denying the motion to dissolve the temporary injunction. Because the landlords never appealed the original grant of the injunction, they may not use a motion to dissolve (and the subsequent appeal) as a vehicle to relitigate whether the injunction was properly granted in the first place. The court presumes the original injunction was valid and supported by the record. A motion to dissolve requires a showing of changed circumstances (or a change in the law) since the injunction was issued. No such changed circumstances were shown here; the landlords simply re-argued the sufficiency of the evidence from the original hearing. The injunction's prohibition on eviction efforts does not create a subject-matter jurisdiction defect that would allow dissolution in this procedural posture. The district court order does not purport to decide the eviction itself; it merely maintains the status quo pending trial. The court noted that the proper and "most expeditious" way to resolve the dispute is to try the case on the merits (quoting an older Texas Supreme Court opinion), not to continue litigating the injunction. The temporary injunction therefore remains in effect until the case is tried or otherwise resolved.

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## -Liens

[IN RE: A PURPORTED LIEN OR CLAIM AGAINST DIANA SCHAUMBURG, --- S.W.3d ---](#) (Tex.App.-Hous. (14 Dist.), 2026)

**Trial court has a ministerial duty to consider and rule on a properly filed motion under Texas Government Code § 51.903 to review a purported fraudulent lien and errs by dismissing the case for want of prosecution without ruling on the motion.**

**Facts:** Diana Schaumburg owned residential property in Harris County. After a severe winter storm in 2021, she hired a contractor, Matilde Hernandez, doing business as Room by Room Home Renovations, to repair water damage to the home, with payment to come from insurance proceeds. Later, Hernandez filed a lien in the real property records claiming she had not been fully paid. Schaumburg discovered the lien in 2025 while attempting to sell her home. She filed a motion in district court under Texas Government Code §51.903 seeking judicial review of the lien as a potentially fraudulent instrument and requested expedited ex parte review. The trial court never ruled on the motion and instead dismissed the case for want of prosecution. Schaumburg appealed.

**Issues:** Did the trial court err by dismissing the case for want of prosecution without ruling on Schaumburg’s motion for judicial review of a purported fraudulent lien under Texas Government Code §51.903?

**Holding:** The 14<sup>th</sup> Court of Appeals reversed the dismissal and remanded the case, holding that the trial court had a ministerial duty to consider and rule on Schaumburg’s properly filed §51.903 motion rather than dismiss the case. Section 51.903 creates an expedited procedure for challenging fraudulent liens, allowing courts to review the motion ex parte and without testimony or notice based solely on the documents submitted. When such a motion is properly filed and pending before a court, the court has a ministerial duty to consider and rule on it. The statute’s use of the word “may” refers to the court’s authority to conduct the review without notice or hearing, not discretion to ignore the motion altogether. By dismissing the case for want of prosecution instead of ruling on the motion, the trial court frustrated the statute’s purpose of providing a quick remedy for property owners facing fraudulent liens.

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## -Nuisance

[Montellano v. Jones](#), No. 04-25-00331-CV, [2026 WL 157128](#) (Tex. App. Jan. 21, 2026)

**Texas Property Code § 21.046 (relocation assistance) applies only when a government acquires property through eminent domain, not when a city orders demolition as a nuisance abatement**

**Facts:** Richard Montellano owned and lived in a residence in San Antonio that the city determined was a dangerous structure due to severe code violations. After several years of inspections and attempted compliance, the City’s Building Standards Board found the structure to be a public nuisance, concluded it was not feasible to repair, and ordered the house

demolished and the premises vacated. Montellano did not appeal the nuisance abatement order. Instead, he sued multiple City officials in their official capacities, alleging they acted *ultra vires* by failing to implement a relocation assistance program under Texas Property Code § 21.046. Montellano argued that subsection (e) of the statute applied because the demolition resulted from code enforcement and required the City to provide relocation assistance even though the City was not acquiring the property.

**Issues:** (1) Does Texas Property Code § 21.046 require a municipality to provide relocation assistance to individuals displaced by nuisance abatement or demolition orders when the government does not acquire the property? (2) Did City officials act *ultra vires* by failing to implement a relocation assistance program under § 21.046 in the context of Building Standards Board nuisance abatements? (3) Did the trial court have subject-matter jurisdiction over Montellano’s claims or whether governmental immunity barred the suit? (4) Did the alleged failure to provide relocation assistance violate Montellano’s right to due course of law under the Texas Constitution?

**Holding:** Affirmed. The 4<sup>th</sup> Court of Appeals held that Texas Property Code § 21.046 applies only in the eminent domain context—where a governmental entity acquires possession of, or the right to use, private property—and does not apply to nuisance abatement proceedings in which the government does not obtain the property. Because the City was not exercising eminent domain and would not acquire Montellano’s property, City officials had no statutory duty to implement a relocation assistance program and therefore did not act *ultra vires*. As no legal duty existed, governmental immunity barred the suit, and Montellano had no vested property interest triggering due-course-of-law protections. The trial court’s order granting the plea to the jurisdiction was affirmed.

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## -Quiet Title

[GRIFFIN ENERGY LAW, PLLC, Appellant v. ROBERT D. BILLINGSLEY, FREEDA BILLINGSLEY, AND JAMES M. DAVIS, JR., Appellees, No. 11-24-00174-CV, 2026 WL 616105 \(Tex. App. Mar. 5, 2026\)](#)

**Mineral interest acquired during marriage remains separate property when it is obtained in exchange for property previously established as separate property - party claiming a community interest must produce evidence sufficient to rebut the separate property presumption created by deed recitals.**

**Facts:** In the late 1970s, brothers Larry Billingsley and Robert Billingsley acquired adjoining quarter sections of land in Martin County, Texas. Larry purchased the southwest quarter (SW/4) in 1978 while married to Nickie Curtis Billingsley. The deed for Larry’s purchase expressly stated that the property was bought with Larry’s separate funds and would be his separate property. In 1979, the brothers exchanged (“swapped”) mineral interests: Robert conveyed half

of his minerals in the southeast quarter (SE/4) to Larry, and Larry conveyed half of his minerals in the SW/4 to Robert. No money changed hands; the exchange was simply an in-kind swap of mineral interests. After Larry's death in 1986, his will placed his estate—including his mineral interests—in a trust for Nickie's benefit, with remainder to his siblings. Ultimately, Larry's siblings conveyed the mineral interests to Robert, who later transferred them to other parties. For decades, the Billingsley family treated the mineral interests as Larry's separate property, executed leases, paid taxes, and received royalties from wells drilled on the property. In 2023, Griffin Energy Law, PLLC (GEL) obtained a mineral deed from Nickie's son (who claimed to inherit Nickie's community property interest) and filed a quiet-title suit, asserting that Larry's acquisition of minerals from Robert during marriage created a community property interest belonging to Nickie's estate. The trial court granted summary judgment for the Billingsley parties and quieted title in them. GEL appealed.

**Issues:** (1) Is the mineral interest Larry acquired from Robert in 1979 community property or Larry's separate property? (2) Did the Billingsley parties rebut the community property presumption with clear and convincing evidence? (3) Did the trial court err in granting summary judgment for the Billingsley parties and in denying GEL's competing motion for summary judgment? (4) Did the trial court abuse its discretion in overruling GEL's evidentiary objections to the summary judgment evidence?

**Holding:** The 11<sup>th</sup> Court of Appeals affirmed the trial court's summary judgment, holding that the evidence conclusively established that the disputed mineral interest was Larry's separate property, and therefore GEL—claiming through Nickie—had no ownership interest. The 1978 deed conveying the SW/4 to Larry contained explicit separate-property recitals, creating a presumption that the property was Larry's separate property. GEL failed to produce evidence sufficient to rebut that presumption. Affirmed.

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## **-Restrictive Covenants**

[ENCINO RANCH HOMEOWNERS ASSOCIATION, INC., Appellant v. Sergio SANTOS, Anne Santos, Billy Limmer, Brendan M. Hiers, Karen R. Hiers, Miguel Carrillo, Vanessa Martin Del Campo, Mohammad Afzal Siddiqui, Rehana P. Siddiqui, & Randy Mulholland, Appellees, No. 04-24-00699-CV, 2026 WL 40956 \(Tex. App. Jan. 7, 2026\)](#)

***Four year statute of limitations applied to declaratory judgment action regarding restrictive covenants which began running once a dispute arose***

**Facts:** Encino Ranch Homeowners Association oversees a residential subdivision developed in four units. The original developer recorded restrictive covenants for Unit 1 in 1998, with language allowing future units to be annexed by recording proper instruments. Units 2, 3, and 4

were later platted and sold. In 2003, a successor developer attempted to annex Units 2–4 into the original declaration, but the annexation was defective because the developer no longer owned the property at the time of filing. In 2020, the Association sued property owners in Units 2–4 seeking a declaratory judgment that they were bound by the subdivision’s restrictions under the doctrine of implied reciprocal negative easements. The homeowners asserted a four-year statute of limitations defense, arguing the claim accrued in 2003 when the defective annexation was recorded or discovered. The trial court agreed and ruled the claim time-barred. The Association obtained permission to pursue a permissive appeal.

**Issues:** (1) Does a statute of limitations apply to a declaratory judgment action seeking to enforce restrictive covenants through the doctrine of implied reciprocal negative easements? (2) If it does, when did the Association’s declaratory judgment claim accrued for limitations purposes?

**Holding:** Reversed. The 4<sup>th</sup> Court of Appeals held that the four-year residual statute of limitations applies to the Association’s declaratory judgment claim, but the claim did not accrue until an actual controversy arose between the parties. Because there was no dispute over the applicability of the covenants until homeowners refused to sign consent-to-annexation forms in June 2019, limitations began running at that time. The Association’s 2020 suit was therefore timely. The court reversed the trial court’s limitations ruling and remanded the case for further proceedings.

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## **-Tax Liens**

WANDA JOYCE SMITH, Appellant v. CASEY LENDING, LLC AND TAI PHAN, Appellees, No. 01-22-00954-CV, [2026 WL 233133](#) (Tex. App. Jan. 29, 2026)

**Co-tenant cannot authorize a tax-lien transfer or foreclosure against another owner’s undivided interest under Tax Code § 32.06 without consent.**

**Facts:** Wanda Joyce Smith claimed a one-third undivided interest in Harris County real property through a 2014 deed from a co-owner. After delinquent property taxes accumulated, another co-owner, Thomas Schrick, contracted with Casey Lending to pay the taxes and authorized taxing authorities to transfer tax liens under Texas Tax Code § 32.06. Casey Lending later foreclosed, and the property was sold at a tax sale to Tai Phan. Smith alleged she did not receive notice of the trial that resulted in the foreclosure judgment and filed a bill of review seeking to set aside the judgment as to her interest, along with counterclaims and third-party claims challenging the foreclosure and tax sale. The trial court granted summary judgment for Casey Lending and Phan, dismissing Smith’s claims with prejudice.

**Issues:** (1) Did Smith have standing to challenge the foreclosure based on the validity of her deed? (2) Was Casey Lending entitled to foreclose on Smith’s one-third interest under Texas Tax Code § 32.06 when Smith did not authorize the transfer of tax liens? (3) Did the trial court have

jurisdiction to adjudicate Smith’s counterclaims and third-party claims in the bill-of-review proceeding? (4) Was summary judgment properly granted against Smith on her bill of review and related claims?

**Holding:** The 1<sup>st</sup> Court of Appeals dismissed Smith’s counterclaims against Casey Lending and third-party claims against Phan for lack of jurisdiction, but reversed summary judgment on Smith’s bill of review and remanded. The court held that Smith’s deed was valid and conferred standing, and that under Texas Tax Code § 32.06, a co-tenant cannot authorize the transfer or enforcement of tax liens against another co-tenant’s undivided interest without that owner’s consent. Accordingly, Casey Lending was not entitled to summary judgment foreclosing on Smith’s interest as a matter of law. Remanded to trial court.

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## TORTS

### -Damages

[EXXON MOBIL CORPORATION, Appellant v. TAMARA BROWN, DEMARCUS FRIELS, AND BRAYAN ROQUE, Appellees](#), No. 14-24-00104-CV, [2026 WL 59875](#) (Tex. App. Jan. 8, 2026)

**Exxon was properly found liable for the Baytown plant explosions, but many mental-anguish damage awards were legally unsupported or excessive, requiring partial rendition and a remand for a new trial on damages**

**Facts:** This personal-injury case arose from a series of massive explosions and a fire at Exxon Mobil’s Baytown Olefins Plant on July 31, 2019, caused by an accumulation of “popcorn polymer.” Although no one was killed or burned, numerous workers sued Exxon for injuries sustained while fleeing the explosions. After earlier appellate rulings eliminated some claims under workers’ compensation exclusivity, three plaintiffs—Brayan Roque, DeMarcus Friels, and Tamara Brown—proceeded to trial. Each claimed physical and psychological injuries suffered during their escape from the fire. A jury found Exxon negligent and awarded the plaintiffs substantial damages across multiple categories, including pain, mental anguish, physical impairment, disfigurement, medical expenses, and lost earning capacity. Exxon appealed, challenging jury-charge submissions and the legal and factual sufficiency of many damage awards.

**Issues:** (1) Did the trial court commit reversible charge error by submitting liability in terms of proximate cause of the “occurrence” (the fire) rather than the plaintiffs’ “injuries”? Was the evidence legally and factually sufficient to support the existence and amounts of various damages, particularly mental-anguish damages?

**Holding:** The 14<sup>th</sup> Court of Appeals held that the trial court did not abuse its discretion in submitting the jury charge and rejected Exxon’s charge-error complaints. However, the court

sustained several of Exxon’s sufficiency challenges, concluding that some mental-anguish awards—especially future mental-anguish damages—were either unsupported by legally sufficient evidence or were factually excessive. The court reversed and rendered judgment as to certain damages, reversed others, and remanded the case for a new trial on all categories of damages for which the evidence was legally sufficient, because liability had been contested and damages could not be retried separately.

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## **-Defamation**

[JOAN DALY, Appellant v. PETER LEHLE, Appellee](#), No. 14-24-00828-CV, [2025 WL 3521373](#) (Tex. App. Dec. 9, 2025)

### ***Defamation claim survives TCPA motion; IIED dismissed as duplicative gap-filler.***

**Facts:** Daly, chair of the tennis committee for the Coles Crossing HOA, publicly accused Lehle—head of a pickleball exploratory committee—of taking photographs of children “for inappropriate purposes” at an HOA board meeting attended by 35–40 people. Multiple board members and residents understood Daly’s statements as calling Lehle a “pervert,” “pedophile,” or “sexual predator.” Lehle claimed he was documenting court-use rule violations. He sued for defamation and intentional infliction of emotional distress (IIED). Daly filed a Texas Citizens Participation Act (TCPA) motion to dismiss, which was denied by operation of law.

**Issues:** (1) Did Daly show that the TCPA applied because her statements were made in connection with a matter of public concern? (2) Did Lehle establish a prima facie case for defamation under the TCPA? (3) Did Lehle establish a prima facie case for IIED, or is it barred as a “gap-filler” tort?

**Holding:** The 14<sup>th</sup> Court of Appeals held that the TCPA applies because the alleged defamatory statements were made during a public HOA meeting related to community safety and well-being were matters of public concern. However, the defamation claims may proceed because the statement was (1) Published to third parties; (2) was defamatory per se (implied sexual misconduct) (3) Lehle was a limited-purpose public figure in the pickleball controversy (4) There was prima facie evidence of actual malice—Daly had been informed multiple times of the legitimate reason for the photos yet persisted in accusing Lehle. TCPA dismissal was properly denied as to defamation. The IIED claim was dismissed. The court held that IIED is a gap-filler tort. Here, the conduct was entirely covered by defamation; thus, Lehle failed to make a prima facie IIED showing. Trial court’s denial reversed and rendered to dismiss IIED. Remanded as to defamation claim.

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[Elon Musk, Appellant v. Benjamin Brody, Appellee](#), No. 03-24-00392-CV, [2026 WL 785544](#) (Tex. App. Mar. 20, 2026)

**Social media statement framed as an opinion based on disclosed or widely known facts—especially in the context of online debate—is not actionable defamation and is subject to dismissal under the TCPA.**

**Facts:** Following a widely circulated video of a violent clash between extremist groups in Portland, social media users speculated about the identities of masked participants. Some users incorrectly identified Benjamin Brody, a college student, as one of the individuals. Elon Musk engaged in the online discussion and ultimately posted a tweet stating that one participant “looks like” a college student who wanted to work for the government and that the situation was likely a “false flag.” Brody denied involvement and presented evidence he was not present at the event. He sued Musk for defamation. Musk filed a motion to dismiss under the Texas Citizens Participation Act (TCPA), asserting his statements were protected free speech on a matter of public concern. The trial court denied the motion, and Musk appealed.

**Issues:** (1) Was Musk’s TCPA motion to dismiss timely and valid, despite being signed by an out-of-state attorney not yet admitted pro hac vice? (2) Was Brody a limited-purpose public figure, requiring proof of actual malice? (3) Did Musk’s tweet constitute actionable defamation or a nonactionable opinion under the TCPA framework? (4) Did Brody produce clear and specific evidence establishing a prima facie case of defamation?

**Holding:** The 3<sup>rd</sup> Court of Appeals reversed and remanded. The court held that the TCPA motion was timely and valid: A later-granted pro hac vice admission cured any defect in the attorney’s signature. Brody was not a public figure: He did not voluntarily inject himself into the controversy; his statements were merely defensive. Musk’s tweet was not actionable defamation. It was “pure opinion” based on facts already disclosed or widely known in the online discussion and did not imply undisclosed defamatory facts. Because Brody failed to establish a prima facie case, dismissal under the TCPA was required.

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## **-Employer Liability**

[Herrera v. CWJ Forklift Serv., LLC](#), No. 11-24-00019-CV, [2026 WL 246983](#) (Tex. App. Jan. 30, 2026)

**Employer not liable for an intoxicated employee’s off-duty accident where the employer merely told the employee not to drive**

**Facts:** Felipe F. Oviedo Castillo was killed in a motor vehicle accident while riding in a vehicle driven by Jesse Vasquez, who was allegedly intoxicated. Castillo’s mother, Maria Antonia Castillo Herrera, sued Vasquez and his employer, CWJ Forklift Service, LLC, along with its owners. Herrera alleged that Vasquez became intoxicated at a work party hosted by the employer, where alcohol was served. She claimed that the employer’s supervisor knew Vasquez was intoxicated and told him he should not drive but ultimately allowed him to leave the party and drive away. Vasquez later caused the crash that killed Castillo. Herrera asserted claims against the employer for negligence, gross negligence, wrongful death, and survival, alleging the employer failed to prevent Vasquez from driving while intoxicated. The employer moved to

dismiss under Texas Rule of Civil Procedure 91a, arguing that the pleadings failed to state a viable cause of action. The trial court granted the motion and dismissed the claims against the employer. Herrera appealed.

**Issues:** (1) Did the plaintiff’s pleadings state a viable negligence claim against an employer for the off-duty conduct of an intoxicated employee? (2) Did the employer’s alleged conduct—specifically a supervisor telling the intoxicated employee not to drive—constitute the type of “affirmative negligent control” over the employee required under *Otis Engineering Corp. v. Clark*?

**Holding:** The Eleventh Court of Appeals affirmed the Rule 91a dismissal, holding that the plaintiff’s pleadings failed to state a legally viable claim against the employer. The court held that under Texas law, providers of alcohol generally owe no duty to third parties for injuries caused by an intoxicated person, including when alcohol is provided by an employer at a social event. An employer may be liable for an intoxicated employee’s off-duty conduct only under the narrow rule announced in *Otis Engineering*, which requires that the employer affirmatively and negligently exercise control over an incapacitated employee. The plaintiff’s allegations did not meet that standard because the supervisor’s statement that the employee “should not drive” was neither a negligent act nor an affirmative act of control that worsened the situation. Instead, it attempted to reduce the risk of harm. Because the pleadings failed to allege the required negligent and affirmative exercise of control, the claims against the employer had no basis in law, and dismissal under Rule 91a was proper.

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## -High Voltage Line Statute

[Oncor Elec. Delivery Co. LLC v. Ramirez](#), No. 01-24-00088-CV, [2026 WL 545756](#) (Tex. App. Feb. 27, 2026)

**Subordinate employee who investigates a brushfire and is electrocuted by a sagging power line is not conclusively a “person responsible” under Chapter 752 where there is no evidence he had authority to negotiate safety arrangements or bind his employer.**

**Facts:** Juan Carlos Ramirez was working as a contract “pumper” at an oil wellsite when he discovered a brushfire. While making his assigned rounds and reporting to his supervisor, he notified Citation Oil & Gas’s assistant foreman about the fire and indicated he would investigate it. During a follow-up phone call with the supervisor, Ramirez was electrocuted by a sagging high-voltage power line owned by Oncor that was hanging approximately two feet above the ground. Ramirez’s wrongful death beneficiaries sued Oncor for negligence. Oncor moved for traditional summary judgment, asserting the affirmative defense that Ramirez was a “person responsible” under Chapter 752 of the Texas Health & Safety Code (the high-voltage line statute). Oncor argued Ramirez failed to provide the required 48-hour notice and arrange for de-energizing the line before coming within six feet of it, which would bar recovery. The trial court denied summary judgment. The court of appeals granted permissive review to determine whether Ramirez qualified as a “person responsible” under Chapter 752.

**Issues:** (1) Was Ramirez a “person responsible” for temporary work or activity near a high-voltage overhead line under Chapter 752 of the Texas Health & Safety Code? (2) Did Oncor conclusively establish its affirmative defense under Chapter 752, entitling it to summary judgment?

**Holding:** No. The First Court of Appeals affirmed the trial court’s denial of summary judgment. Oncor failed to conclusively establish that Ramirez was a “person responsible” under Chapter 752. At minimum, fact issues precluded summary judgment. The court relied heavily on *Sun Oil Co. v. Massey* (Tex. App.—Houston [1st Dist.] 1979), which held a subordinate employee was not “responsible” under the predecessor statute where he lacked authority to negotiate or bind his employer. Ramirez was a subordinate employee acting as a contract pumper. There was no evidence he had authority to negotiate agreements with Oncor, bind his employer contractually, nor authorize payment for line de-energization. The record suggested he reported the fire to his supervisor and remained in communication, indicating lack of independent authority. At a minimum, fact questions existed regarding whether Ramirez was acting within the scope of employment, whether he exercised control over the activity near the line, and whether he was “responsible” under the statute. The case was remanded for further proceedings.

## **-Hospital Lien**

[TEXAS HEALTH HARRIS METHODIST HOSPITAL FORT WORTH, Appellant v. STEPHEN FEATHERLY, Appellee](#), No. 02-24-00572-CV, [2025 WL 3723946](#) (Tex. App. Dec. 23, 2025)

**Trial court acted within its discretion in awarding attorney’s fees and denying the Hospital fees under the UDJA, but the fee award was reduced to exclude amounts unsupported by legally sufficient evidence.**

**Facts:** Stephen Featherly was injured in a 2014 motor-vehicle accident and received emergency-room treatment at Texas Health Harris Methodist Hospital Fort Worth. The Hospital initially billed Featherly \$24,682 but applied an uninsured discount, reducing the balance to \$13,575.10. After learning Featherly might recover damages from a third party, the Hospital filed a statutory hospital lien and later sought the full \$24,682 without the discount. Featherly settled his personal-injury case and then filed a declaratory-judgment action challenging the Hospital’s lien as exceeding a “reasonable and regular rate” under Texas Property Code Chapter 55. After extensive litigation, including a prior appeal and remand, a jury found the reasonable and regular rate for the Hospital’s services to be \$18,559.25. The trial court declared the lien excessive to the extent it exceeded that amount and awarded Featherly \$196,166 in attorney’s fees under the Uniform Declaratory Judgment Act (UDJA), while denying the Hospital’s request for fees.

**Issues:** (1) Did the trial court abuse its discretion by awarding Featherly nearly \$200,000 in attorney’s fees under the UDJA, despite the relatively small reduction in the Hospital’s lien? (2) Did the trial court abuse its discretion by refusing to award attorney’s fees to the Hospital for defending against the declaratory-judgment action? (3) Was the evidence legally sufficient to

support the full amount of attorney's fees awarded, including fees attributed to legal assistants and billing discrepancies?

**Holding:** No on all issues. The Second Court of Appeals held that the trial court did not abuse its discretion in awarding attorney's fees to Featherly and denying fees to the Hospital, given the UDJA's "equitable and just" standard and evidence that the Hospital's aggressive, high-budget litigation strategy drove the fees; however, the court modified the judgment to reduce the fee award by \$9,056 due to insufficient evidence supporting certain legal-assistant fees and billing inconsistencies, and affirmed the judgment as modified.

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## **-Proximate Cause**

BULAH MARIE GARRETT, INDIVIDUALLY AND AS REPRESENTATIVE OF THE ESTATE OF LYNDELL RAY GARRETT, DECEASED; LISA GARRETT; AND SHELLY GARRETT, Appellants v. WAL-MART STORES TEXAS, LLC D/B/A WAL-MART SUPERCENTER #561 AND GREYHOUND LINES, INC., Appellees, No. 11-24-00058-CV, 2026 WL 842979 (Tex. App. Mar. 26, 2026)

**No duty or proximate cause where bus company removed unstable passenger and retailer observed only erratic behavior; third-party criminal act not foreseeable as a matter of law.**

**Facts:** A mentally ill passenger, Brad Wilson, exhibited increasingly erratic and aggressive behavior while riding a Greyhound bus. The driver removed Wilson from the bus in Eastland without notifying law enforcement, despite believing Wilson might pose a danger. Wilson later went to a Wal-Mart, where employees and at least one customer observed that something seemed "not right" about him. He purchased a pocketknife and alcohol, lingered around the premises behaving oddly, and eventually stabbed and killed a customer, Lyndell Garrett. The Garrett family sued Greyhound and Wal-Mart for negligence and gross negligence, alleging both defendants failed to prevent the foreseeable attack. The trial court granted summary judgment for both defendants.

**Issues:** (1) Did Greyhound owe a duty to protect the general public from its passenger's conduct after removing him from the bus? (2) Did Greyhound's actions proximately cause the murder? (3) Did Wal-Mart owe a duty to protect invitees from Wilson's conduct based on negligent activity or premises liability? (4) Was the attack foreseeable such that Wal-Mart could be liable for failing to act?

**Holding:** The 11<sup>th</sup> Court of Appeals affirmed summary judgment for both Greyhound and Wal-Mart. Greyhound did not owe a duty to control or protect the public from a passenger once he was removed from the bus; no special relationship or "taking charge" duty applied. The plaintiffs failed to timely plead negligent undertaking. Greyhound was not a proximate cause of the death. Removing Wilson from the bus merely created a condition; the later was too attenuated to be a substantial factor. The court also found no negligent activity by WalMart. Selling a pocketknife and alcohol was not contemporaneous with the injury and cannot support liability; negligent entrustment does not apply to sellers. Wal-Mart lacked actual and direct knowledge of imminent violent conduct; erratic behavior alone did not make the attack

foreseeable therefore there was no proximate cause. The assault was not foreseeable based on the information available to Wal-Mart employees. Summary judgment affirmed.

## **-Recreational Use Statute**

City of San Antonio v. Realmé, No. 24-0864, 2026 WL 706013 (Tex. Mar. 13, 2026)

### **Turkey Trot “fun run” is “recreation” under Texas’s Recreational Use Statute – claims barred**

**Facts:** While participating in a Turkey Trot 5K held in San Antonio, Nadine Realmé tripped over a metal pole fragment and broke her arm. She sued the City of San Antonio for negligence and premises liability. The City moved for summary judgment, arguing that Realmé’s negligence claim is barred under the Recreational Use Statute, which immunizes the City from ordinary negligence claims when a person “engages in recreation” on City property. The trial court denied the motion, and the court of appeals affirmed. The City petitioned the Supreme Court for review.

**Issues:** Is a holiday-themed fun run “recreation” under Texas’s Recreational Use Statute?

**Holding:** The Supreme Court reversed and held that Realmé’s ordinary negligence claim fails as a matter of law because participation in a holiday-themed footrace plainly falls within the ordinary meaning of “recreation.” Community fun runs like a Turkey Trot 5K bear the hallmarks of recreation, as participants run in these races for enjoyment and amusement. It is inappropriate to abandon this ordinary meaning to shoehorn the activity into one of the many illustrative examples of “recreation” enumerated in the statute. Rather, such illustrative lists serve as an error-check to ensure the scope of a defined term is appropriately construed. Nothing in the statute’s list suggests “recreation” should be so narrowly construed to exclude a community fun run. The Supreme Court remanded to the court of appeals to decide in the first instance whether Realmé should prevail on her gross-negligence claim.

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## **-Social-Host Liability**

Rafael CISNEROS and Sofia Nanez, Appellants v. Humberto LEAL, Yvonne Leal, and Samuel Rene Ramos, Appellees, --- S.W.3d ---- (Tex.App.-San Antonio, 2026)

**Texas Alcoholic Beverage Code § 2.02(c) creates civil liability for adults who knowingly allow minors to drink alcohol on their premises, and summary judgment was improper where fact issues remained on whether the hosts allowed the drinking and whether the minor’s intoxication caused the accident.**

**Facts:** A minor driver, Jesus Lerma Montemayor, was involved in a fatal car accident after allegedly consuming alcohol at several homes where adults were present. The accident left Rafael Cisneros, a minor passenger, severely injured and resulted in the amputation of his arm. Before the crash, Lerma and other minors allegedly drank alcohol at three separate residences belonging to adults, including the homes of Humberto and Yvonne Leal and Samuel Rene Ramos. The plaintiffs alleged the adults knowingly allowed alcohol to be served to minors in their homes, leading to Lerma’s intoxication and the subsequent crash. Cisneros and his mother

sued the adult homeowners under Texas Alcoholic Beverage Code § 2.02(c) for damages caused by a minor's intoxication. The defendants moved for traditional summary judgment, arguing Texas law does not recognize social-host liability and that no evidence showed they allowed minors to drink alcohol or that the intoxication caused the accident. The trial court granted summary judgment in favor of the defendants.

**Issues:** (1) Does Texas law recognize a civil cause of action for social-host liability when an adult knowingly allows minors to consume alcohol in their home? (2) Did the defendants conclusively establish the absence of a genuine issue of material fact regarding whether they allowed minors to consume alcohol? (3) Did the defendants conclusively negate proximate causation between the minor driver's intoxication and the plaintiffs' injuries?

**Holding:** The Fourth Court of Appeals reversed the summary judgment and remanded the case for further proceedings. The court held that Texas recognizes social-host liability under Texas Alcoholic Beverage Code § 2.02(c) for adults who knowingly serve, provide, or allow alcohol to be provided to minors in their home. The defendants failed to conclusively establish that they did not "allow" minors to drink alcohol, because their affidavits only stated they did not "authorize" it, which does not negate passive acquiescence under the statute. The defendants also failed to conclusively negate proximate causation, as a reasonable jury could find that the minor driver's intoxication contributed to the accident, and any negligence by another intoxicated driver presented a fact issue rather than a superseding cause.

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## -Texas Farm Animals Activities Act

[DANICA WILDE, APPELLANT v. SAN ANGELO STOCK SHOW & RODEO ASSOCIATION, INC., APPELLEE](#), No. 07-25-00016-CV, [2025 WL 3647485](#) (Tex. App. Dec. 16, 2025)

***Farm Animal Activities Act barred a rider's premises-liability claim because her injuries resulted from inherent risks of indoor match horse racing and no statutory exception was pleaded.***

**Facts:** During an indoor match horse race at the San Angelo Cinch Roping Fiesta, a rider was thrown from her horse after crossing the finish line when the horse abruptly decelerated near a border fence, causing her to collide with the fence and suffer injuries. The rider sued the event sponsor for premises liability, alleging the arena's fence was placed too close to the finish line and created an unreasonably dangerous condition. The trial court dismissed the rider's claims under TRCP 91a.

**Issues:** (1) Does the Texas Farm Animal Activities Act bar the rider's negligence claim because her injuries resulted from inherent risks of a farm animal activity? (2) Did the rider plead facts sufficient to invoke a statutory exception to the Act, including willful or wanton disregard for participant safety?

**Holding:** The 7<sup>th</sup> Court of Appeals affirmed the trial court’s dismissal. The court affirmed dismissal under Rule 91a, holding that the rider’s injuries arose from inherent risks of match horse racing in an enclosed arena—specifically, the unpredictable behavior of horses and collisions with arena boundaries—and that the pleadings failed to allege facts establishing any statutory exception to the Act’s immunity. Affirmed.

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## **-Medical Malpractice**

[Lynda Michelle Gonzalez, Individually, on Behalf of All Wrongful Death Beneficiaries, & as Pers. Representative of the Est. of Donna H. Voldahl, deceased, Appellant v. Augustine O. Eleje, M.D.; Augustine O. Eleje, M.D., P.A.; Antonio Morales Ortega, M.D.; Antonio M. Ortega, M.D., P.A.; & Haroutioun S. Shahinian, M.D., Appellees, No. 08-24-00338-CV, 2026 WL 77619 \(Tex. App. Jan. 9, 2026\)](#)

***Trial court abused its discretion by excluding the plaintiff’s sole medical expert on standard of care and causation.***

**Facts:** Donna Voldahl underwent gallbladder surgery and was treated during three separate hospitalizations by an internal medicine physician (Eleje), an infectious disease specialist (Ortega), and a hematologist (Shahinian). Following surgery, she exhibited persistent abdominal pain, elevated white blood cell counts, and signs of infection, but was repeatedly discharged without surgical re-evaluation. She later developed an intra-abdominal abscess and sepsis, underwent emergency surgery for a perforated colon, and ultimately died. Her daughter sued the physicians for medical negligence, alleging failures in diagnosis, treatment, and postoperative care.

**Issues:** (1) Did the trial court abuse its discretion by excluding the plaintiff’s sole expert physician’s testimony on the applicable standards of care for each defendant physician? (2) Did the trial court err in excluding the expert’s causation testimony as speculative? (3) Did the exclusion of the expert testimony resulted in an improper take-nothing judgment?

**Holding:** Reversed. The 8<sup>th</sup> Court of Appeals held that the trial court abused its discretion by excluding the expert’s testimony on both standard of care and causation; the expert was qualified despite not sharing the defendants’ specialties, his opinions were not purely speculative, and exclusion of his testimony was harmful error requiring reversal and remand for a new trial.

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## **- Texas Medical Liability Act (TMLA)**

[CITY OF HOUSTON, Appellant v. JUAN UMANA, Appellee, No. 14-24-00911-CV, 2025 WL 3481343 \(Tex. App. Dec. 4, 2025\)](#)

**Simple car-wreck claim not a healthcare liability claim – no expert report required.**

**Facts:** After finishing a medical appointment at a City-run clinic, Umana was being driven home in a City-owned van operated by a City employee who transports tuberculosis patients to and from clinic visits. The driver failed to yield while turning into Umana’s apartment complex and collided with another vehicle, injuring Umana. He sued the City for negligence under respondeat superior. The City moved to dismiss under the Texas Medical Liability Act (TMLA), arguing the lawsuit was a healthcare liability claim (HCLC) requiring an expert report. The trial court denied the motion.

**Issue:** Did Umana’s negligence claim over a traffic accident during transport from a clinic constitute an HCLC subject to TMLA’s expert report requirement?

**Holding:** No. The 14<sup>th</sup> Court of Appeals held that a simple car-wreck claim during a courtesy ride home from a medical appointment did not arise from healthcare or healthcare-related safety standards. Under the *Ross* factors, there was no substantive nexus between the alleged negligence (failure to yield under Texas traffic law) and the provision of healthcare. The claim did not implicate medical judgment, patient safety obligations related to treatment, or instruments used to provide healthcare. Expert medical testimony was unnecessary. Therefore, the trial court properly denied dismissal. Affirmed.

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[RENOVE MEDICAL SPA, PLLC & AFIA NAQVI, M.D., Appellants v. CHARLOTTE ELIZONDO, Appellee](#), No. 14-25-00553-CV, [2026 WL 805754](#) (Tex. App. Mar. 24, 2026)

**Unqualified expert report is a deficient—not nonexistent—report; failure to object within 21 days waives challenge and bars dismissal under the TMLA.**

**Facts:** Charlotte Elizondo sued Renove Medical Spa and Dr. Afia Naqvi, alleging negligent cosmetic filler injections caused serious complications, including infection. Under the Texas Medical Liability Act (TMLA), Elizondo timely served an expert report authored by a nurse practitioner. The defendants did not object within 21 days to the expert’s qualifications. Over a year later, they moved to dismiss, arguing: Only a physician may opine on standard of care and causation in this context; and Because the expert was not qualified, the report was the equivalent of “no report,” requiring dismissal. The trial court denied the motion to dismiss, and defendants appealed.

**Issues:** (1) Is an expert report authored by an unqualified expert (non-physician) the equivalent of no report, or merely a deficient report under the TMLA? (2) If the report is deficient rather than nonexistent, are objections to the expert’s qualifications waived if not raised within 21 days?

**Holding:** The 14<sup>th</sup> Court of Appeals affirmed the denial of the motion to dismiss. A report authored by an unqualified expert is not “no report”; it is a deficient report. Complaints about an expert’s qualifications go to the sufficiency of the report, not its existence. Under the TMLA, objections to sufficiency—including qualifications—must be raised within 21 days, or they are

waived. Because the defendants failed to timely object, they waived their challenge and could not later seek dismissal. Affirmed – dismissal denied.

## **-Tort Claims Act**

TEXAS MILITARY DEPARTMENT, Appellant, v. JUAN ANTONIO LOPEZ AND MAYRA LOPEZ, INDIVIDUALLY AND AS NEXT FRIENDS OF J.L., A MINOR, MARCO ANTONIO LOPEZ, AND ANGEL LOPEZ Appellees., No. 13-25-00150-CV, 2025 WL 3671829 (Tex. App. Dec. 18, 2025)

***Negligence claim arising from a collision involving an active-duty National Guard member on patrol—even while stopping for food or restroom use—is barred by sovereign immunity.***

**Facts:** While on state active duty in support of Operation Lone Star, a Texas Air National Guard senior airman driving a state-issued vehicle collided with a family’s vehicle after exiting a convenience store where he had stopped, with permission, to refuel, use the restroom, and obtain food during his patrol shift. The injured family sued the Texas Military Department (TMD) for negligence under the Texas Tort Claims Act (TTCA). TMD filed a plea to the jurisdiction asserting sovereign immunity, arguing the claim arose from activities of the state military forces while on active duty. The trial court denied TMD’s plea to the jurisdiction.

**Issues:** Does the TTCA’s motor-vehicle waiver of sovereign immunity apply and/or did the statutory exception for “activities of the state military forces when on active duty under lawful orders of competent authority” bar the suit.

**Holding:** Plea to the Jurisdiction granted. The 13<sup>th</sup> Court of Appeals reversed the trial court’s denial of TMD’s plea to the jurisdiction and rendered judgment dismissing the case, holding that the service member was engaged in activities of the state military forces while on active duty when the accident occurred, and thus the TTCA’s military-forces exception applied and sovereign immunity was not waived.

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MICHAEL ANTHONY SHELTON, Appellant v. CAROLYN MICHELLE FLORES, Appellee, No. 14-24-00900-CV, 2026 WL 272450 (Tex. App. Feb. 3, 2026)

***Tort Claims election of remedies statute requires motion to dismiss by the governmental unit not the individual employee.***

**Facts:** Carolyn Flores sued both the City of Houston and Michael Anthony Shelton, a City employee, for negligence arising from a rear-end automobile collision. Flores alleged Shelton was acting within the scope of his employment, and that immunity was waived under the Texas Tort Claims Act (TTCA). Shelton filed a Rule 91a motion to dismiss, arguing that Flores’s decision to sue both him and the City triggered the TTCA’s election-of-remedies provision and required dismissal of the claims against him. The City filed its own Rule 91a motion but did not seek Shelton’s dismissal under the election-of-remedies statute. The trial court denied Shelton’s motion, and Shelton filed an interlocutory appeal.

**Issue:** Is a government employee entitled to dismissal under Texas Civil Practice & Remedies Code § 101.106(e) when only the employee, and not the governmental unit, files the motion to dismiss?

**Holding:** No. The 14<sup>th</sup> Court of Appeals held that § 101.106(e) requires a motion by the governmental unit, not the employee. Because the City of Houston did not move to dismiss Shelton under the election-of-remedies provision, the trial court properly denied Shelton’s Rule 91a motion. The court affirmed the order, aligning with every Texas appellate court to address the issue.

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[CITY OF HOUSTON, Appellant v. SAM J. ROY, Appellee](#), No. 14-24-00954-CV, [2026 WL 303053](#) (Tex. App. Feb. 5, 2026)

***Plaintiff must plead and prove timely formal notice or actual notice as a jurisdictional prerequisite to suit against a governmental entity.***

**Facts:** Roy sued the City of Houston for personal injuries arising from a motor vehicle accident involving a City-owned truck driven by Santos, an alleged City employee. Roy claimed Santos’s negligence caused the collision and sought damages under the Texas Tort Claims Act (TTCA). The City filed a Rule 91a motion to dismiss, arguing Roy’s petition failed to allege facts showing compliance with the TTCA’s jurisdictional notice requirements—specifically, that Roy provided timely formal notice of his claim or that the City had actual notice of the injury. Roy amended his petition, but still failed to allege facts establishing either formal or actual notice. The trial court denied the City’s motion, and the City appealed.

**Issues:** Did the trial court err in denying the City’s Rule 91a motion to dismiss where Roy failed to plead facts showing compliance with the Texas Tort Claims Act’s notice requirements necessary to waive governmental immunity?

**Holding:** Yes. Reversed. The 14<sup>th</sup> Court of Appeals reversed the trial court’s order and rendered judgment dismissing Roy’s claims with prejudice. The court held that compliance with the Texas Tort Claims Act’s notice requirement—either formal notice within six months or actual notice—is a jurisdictional prerequisite to suit against a governmental entity. Roy’s petition did not allege any facts showing that he provided formal notice or that the City had actual notice of his claim.

Because Roy was given an opportunity to amend his petition and still failed to allege facts establishing a waiver of governmental immunity, dismissal with prejudice was proper. The trial court therefore erred in denying the City’s Rule 91a motion to dismiss.

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[CITY OF HOUSTON, Appellant v. SPENDRICKA FARWELL, Appellee](#), No. 14-24-00876-CV, [2026 WL 303052](#) (Tex. App. Feb. 5, 2026)

**Postjudgment motions seeking substantive changes extend a trial court's plenary power regardless of how they are titled – however, failure by Plaintiff to comply with TTCA notice requirement after several chances to amend required dismissal.**

**Facts:** Farwell sued the City of Houston for personal injuries arising from an automobile accident involving a Houston police vehicle. Farwell alleged that a police officer negligently attempted to turn across her lane and collided with her vehicle, causing injuries. She asserted liability under the Texas Tort Claims Act (TTCA), which waives governmental immunity in limited circumstances. The City filed a Rule 91a motion to dismiss, arguing Farwell failed to plead facts establishing waiver of governmental immunity, including failure to allege compliance with the TTCA's notice requirement. The trial court initially granted dismissal, then reinstated the case after Farwell filed a postjudgment motion explaining she had not been given an opportunity to respond. After reinstatement, the trial court denied the City's motion to dismiss. The City appealed and also sought mandamus relief, arguing the trial court lacked jurisdiction to reinstate the case.

**Issues:** (1) Did the trial court lack jurisdiction to reinstate the case after granting dismissal, entitling the City to mandamus relief? (2) Did the trial court err in denying the City's Rule 91a motion to dismiss based on Farwell's failure to plead facts showing compliance with the Texas Tort Claims Act's notice requirement? (3) Should Farwell be allowed further opportunity to amend her pleadings to cure the jurisdictional defect?

**Holding:** The 14<sup>th</sup> Court of Appeals denied mandamus relief but reversed and rendered judgment dismissing Farwell's claims with prejudice. The court held that Farwell's motion, although styled as a motion to reinstate, was substantively a motion to modify or correct the judgment. Such a motion extended the trial court's plenary power, so reinstatement was proper and mandamus relief was not warranted. The court held that Farwell's pleadings failed to allege any facts showing she provided formal notice of her claim to the City or that the City had actual notice. Because notice is a jurisdictional prerequisite to waiver of governmental immunity under the TTCA, her failure to plead notice required dismissal. Farwell had multiple opportunities to amend her pleadings after the City raised the notice defect but still failed to allege facts establishing notice. Therefore, dismissal with prejudice was appropriate. Dismissed.

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[City of Houston v. Ezzeddine](#), No. 14-24-00907-CV, [2026 WL 468004](#) (Tex. App. Feb. 19, 2026)

**Plaintiffs did not allege sufficient facts to overcome sovereign immunity for traffic signal malfunctions**

**Facts:** On an autumn evening around 10:30 p.m., Ezzeddine was driving northbound on North Shepherd Drive in Houston with passengers Aubrey Davis and minors M.D. and B.T. At the intersection with West Tidwell Road, where the traffic signals were inoperative, another vehicle struck theirs. M.D. was killed and the others were injured. The City of Houston knew of the outage and placed temporary signage at the intersection before the crash. The plaintiffs alleged the temporary signage was "inadequate" and "misleading," causing the other driver to expect working signals. The trial court denied the City's Rule 91a motion.

**Issues:** Did the plaintiffs’ pleadings state facts sufficient to waive the City’s governmental immunity under the Texas Tort Claims Act’s limited exception for traffic-signal malfunctions—specifically, whether they alleged facts showing the City failed to correct the malfunction “within a reasonable time after notice” and that the temporary signage itself was defective or misleading?

**Holding:** The Fourteenth Court of Appeals reversed the trial court’s denial of the City’s Rule 91a motion and rendered judgment dismissing the plaintiffs’ claims with prejudice. The court held that the plaintiffs failed to plead a viable claim because: (1) Their allegation that the City placed temporary signage actually supported (rather than negated) that the City acted within a reasonable time. (2) They offered only conclusory statements that the signage was “inadequate” or “misleading,” with no specific facts describing what the signs said, where they were placed, how they failed to convey proper traffic control, or why they misled the other driver (citing *Dep’t of Transp. v. Garza*, 70 S.W.3d 802 (Tex. 2002)). Despite two opportunities to amend, the pleadings remained deficient, so dismissal with prejudice was proper under Rule 91a. Dismissed.

[THE UNIVERSITY OF TEXAS HEALTH SCIENCE CENTER AT HOUSTON, Appellant v. LISA BUSTOS, TONI SALGADO, AND LOUIS SICOLA, INDIVIDUALLY, AND ON BEHALF OF THE ESTATE OF GLORIA ANN REESE, Appellees](#), No. 01-24-00381-CV, 2026 WL 692236 (Tex. App. Mar. 12, 2026)

***Under the Texas Tort Claims Act, a doctor’s hands alone are not “tangible personal property” so allegations that physicians transmitted infection through unclean hands do not waive sovereign immunity for a state medical institution.***

**Facts:** Gloria Ann Reese was admitted to TIRR Memorial Hermann Hospital for inpatient rehabilitation and physical therapy. Her attending physicians, Dr. Nikola Dragojlovic and Dr. Maryam Ibrahim Sultan, were employees of the University of Texas Health Science Center at Houston (UTHSC-H). Upon admission, Reese’s urinalysis showed the presence of Klebsiella bacteria, which can cause serious infections. During nearly three weeks of hospitalization, Reese was not treated for a bacterial infection. She was later discharged by Dr. Sultan. The next day Reese was admitted to another hospital, where doctors discovered she was septic with infections in her lungs and urinary tract. Despite antibiotic treatment, Reese died about a month later from acute respiratory failure with hypoxia. Reese’s heirs sued UTHSC-H under the Texas Tort Claims Act (TTCA). They alleged the physicians were negligent in several respects, including failing to recognize and treat infection and failing to follow proper medical protocols. However, the central theory of the plaintiffs’ case was that the doctors used unsanitary hands while treating Reese, thereby transmitting the Klebsiella infection. UTHSC-H filed a plea to the jurisdiction, arguing that sovereign immunity barred the suit because the claims did not involve the use of tangible personal property, which is required for the TTCA’s limited waiver of immunity. The trial court denied the plea, and UTHSC-H filed an interlocutory appeal.

**Issues:** (1) Does a state-employed doctor’s hands constitute “tangible personal property” under the Texas Tort Claims Act such that their use could waive sovereign immunity? (2) Did the plaintiffs produce evidence creating a fact issue that the doctors’ hands or instruments actually caused Reese’s infection?

**Holding:** The 1<sup>st</sup> Court of Appeals reversed the trial court and rendered judgment dismissing the claims against UTHSC-H for lack of jurisdiction. The court held that human hands are not tangible personal property under the TTCA, and therefore their use cannot waive sovereign immunity. Texas courts have consistently held that a human body or its parts are not “property” for purposes of the TTCA. Treating human hands as tangible property would dramatically expand the TTCA’s limited waiver of immunity, because any medical treatment involving physical contact would automatically waive immunity. Thus, allegations that physicians used “unclean hands” cannot satisfy the statutory requirement that the injury be caused by the use or condition of tangible personal property. Even if hands could qualify as tangible personal property, the court held that sovereign immunity would still apply because the undisputed jurisdictional evidence showed that the doctors followed standard hand-sanitizing procedures and used gloves. The only instrument used was a sanitized stethoscope with a protective barrier. The doctors were not infected with Klebsiella and had no symptoms of illness. Plaintiffs produced no evidence contradicting the doctors’ affidavits and did not seek jurisdictional discovery. Because the evidence created no fact issue on jurisdiction, the plea to the jurisdiction should have been granted as a matter of law.

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[JESUS DELGADO, Appellant v. HARRIS COUNTY, TEXAS, Appellee](#), No. 14-24-00942-CV, 2026 WL 740666 (Tex. App. Mar. 17, 2026)

***Failure to show reckless disregard defeats TTCA liability; emergency response preserves governmental immunity despite alleged negligence.***

**Facts:** Delgado was injured in a collision with a Harris County deputy who was responding to a priority-one emergency call. The deputy approached an intersection with a red light, came to a complete stop, checked traffic, and proceeded, at which point Delgado struck the rear of the patrol vehicle. It was disputed whether the deputy activated his lights and siren. Delgado sued the County for negligence. The County filed a plea to the jurisdiction, asserting immunity under the Texas Tort Claims Act (TTCA) emergency exception. The trial court granted the plea and dismissed the case.

**Issues:** (1) Did the TTCA’s emergency exception apply, thereby preserving the County’s governmental immunity? (2) Was there a fact issue on recklessness sufficient to defeat the emergency exception? (3) Did the trial court commit procedural error by granting the plea before the scheduled submission date?

**Holding:** The TTCA **emergency exception applies**, and the County retains immunity. The deputy was responding to a priority-one emergency call, satisfying the statutory requirement. Delgado failed to raise a fact issue that the deputy acted with reckless disregard or conscious indifference. Even assuming the deputy did not activate lights or siren, that fact alone does not establish recklessness. The evidence showed the deputy stopped at the red light, checked for traffic, and proceeded cautiously, indicating an effort to minimize risk. Conduct such as entering from a turn lane or failing to see Delgado may support negligence, but not the higher standard of reckless disregard. Delgado bore the burden to negate the emergency exception and failed to produce evidence of conduct posing a high degree of risk. Although granting the plea early may

implicate due process, Delgado failed to raise the issue in the trial court, waiving appellate review.

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## **-Workers Compensation**

[IN RE EXXONMOBIL CORP., Relator](#), No. 14-25-00446-CV, [2025 WL 3672143](#) (Tex. App. Dec. 18, 2025)

***ExxonMobil entitled to workers' compensation immunity as a statutory employer, barring all claims, and granted mandamus relief***

**Facts:** A Texas resident employed by ExxonMobil's subcontractor, Brown & Root, was injured while performing hot work inside a confined vessel at ExxonMobil's Baton Rouge refinery when carbon dioxide and toxic vapors were released. The worker and his spouse sued ExxonMobil in Texas for negligence, gross negligence, premises liability, and intentional torts. ExxonMobil asserted the Texas Workers' Compensation Act's exclusive-remedy defense, contending it was the worker's statutory employer because it had contractually provided workers' compensation insurance coverage to the subcontractor's employees. The trial court denied ExxonMobil's defense.

**Issues:** Did ExxonMobil conclusively establish the Texas Workers' Compensation Act's exclusive-remedy defense? (2) Did a conflict-of-laws analysis require application of Louisiana law? (3) Did employee raise a fact issue under the intentional-tort exception to the exclusive-remedy provision? (4) Did ExxonMobil lack an adequate remedy by appeal, justifying mandamus relief?

**Holding:** The 14<sup>th</sup> Court of Appeals conditionally granted mandamus relief, holding that ExxonMobil conclusively proved it was the employee's statutory employer and provided Texas workers' compensation coverage, that no material conflict of laws required application of Louisiana law, that the employee failed to raise a fact issue on the intentional-tort exception, and that ExxonMobil lacked an adequate appellate remedy because the Act confers immunity from suit. Mandamus relief conditionally granted.

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