



LAW LIBRARY NEWS

a publication of the Fort Bend County Law Library

Edited by: Andrew Bennett, Law Librarian

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Annual Open House and CLE

The Fort Bend County Law Library will be having its Annual Open House on Friday, **February 16th** at **1 pm**. Staff will be giving tours, database training classes, and refreshments. Also, we will be having a **Westlaw CLE in County Court at Law #1** at **1:30 pm**. A representative from Thomson Reuters will be on hand to show you the database as well as to answer any questions you might have. For more information, contact the Law Library.

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New & Updated Resources

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| <i>O'Connor's Texas Series</i> | <i>Creating an Online Publishing Strategy for Law Firms</i>  |
| <ul style="list-style-type: none"> • <i>Family Law Handbook</i> • <i>Texas Rules * Civil Trial</i> • <i>2018-2019 Editions</i> | <ul style="list-style-type: none"> • <i>Published by the ABA</i> • <i>2017 Edition</i> |
| <i>Texas Criminal Pattern Jury Charges</i> | <i>Microsoft OneNote in One-Hour for Lawyers</i>  |
| <ul style="list-style-type: none"> • <i>General and Evidentiary</i> • <i>2018 Edition</i> | <ul style="list-style-type: none"> • <i>Published by the ABA</i> • <i>2017 Edition</i> |
| <i>Texas Worker's Compensation Manual</i> | <i>The Lawyer's Guide to Marketing the Internet</i>  |
| <ul style="list-style-type: none"> • <i>2018 Edition</i> | <ul style="list-style-type: none"> • <i>Published by the ABA</i> • <i>2017 Edition</i> |
| <i>Child Abuse and Neglect Cases</i> | <i>E-Lawyer: A Guide to Legal Practice Leadership</i>  |
| <ul style="list-style-type: none"> • <i>Published by the ABA</i> • <i>2017 Edition</i> | <ul style="list-style-type: none"> • <i>Published by the ABA</i> • <i>2017 Edition</i> |
| <i>LSAT Unlocked</i> | <i>A Guide to HIPAA Security and the Law 2nd</i>  |
| <ul style="list-style-type: none"> • <i>2018-19 Edition</i> | <ul style="list-style-type: none"> • <i>Published by the ABA</i> • <i>2017 Edition</i> |

FBC Bar News

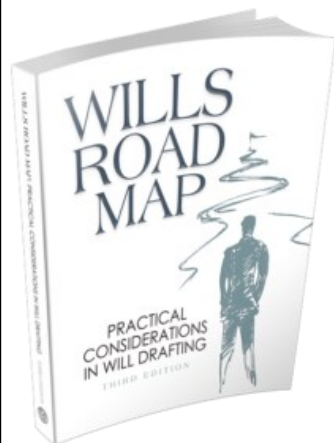
The **February luncheon and meeting** of the Fort Bend County Bar Association will be held at **12:00 pm** on Thursday, **February 22nd** at the [Pecan Grove Plantation Country Club](#) located at 3000 Plantation Drive, Richmond, Texas. The program topic is *The New Sunset Commission Legislation and How It Will Affect Texas Law Practice*. The Speaker will be Robert S. Bennett. The program is approved for 1 hour CLE credit and .25 hours ethics credit. The luncheon cost is \$25 for members and \$30 for nonmembers. [Membership information](#) and the [RSVP Policy for Luncheons](#) are also on the website.

Please **RSVP** no later than 12:00 p.m. on Thursday, **February 20th** by using the form on the [Next CLE Luncheon](#) page.

Member Resources

[Click here for Member Resources](#)

Featured Resource: *Wills Road Map* 3rd Edition



Now in its' 3rd Edition, *Wills Road Map: Practical Considerations in Will Drafting*, published by the State Bar of Texas, provides you with a quick and easy resource for navigating the legal issues in drafting and preparing wills for probate or trusts. The book is a great resource for veteran estate law practitioners, those in general practice, or attorneys who have just come out of law school and need a guide on how to begin. The book breaks down the will process including the fundamental requirements of a will, validity of a will, how a will can be revoked, and what provisions need to be included. Special attention is given to the "silent doctrines" which may have an impact on how the will may be read and interpreted. In addition, the book includes checklists, basic will forms, and sample self-proving affidavits in the appendices. The book is written by Steve Akers, Bernard Jones, and R.J. Watts and updated for this edition by Casey Barthel. All of the authors have extensive experience in Estate Planning, Probate, and Trust Law and have given lectures on the topic at CLE seminars. The book is available in print format and copies of the book can be made for \$0.10 a page. We are hoping to acquire this book in PDF format as well. For more information, contact the Law Library.

Technology Corner

By Jonathan Briggs

This Month's Featured Technology: *Federal Content on O'Connor's Online*

O'Connor's publications have been a staple resource of lawyers for a quarter of century, initially focusing on civil trial and appellate litigation and expanding over the years to cover business, criminal, employment, family, IP, oil and gas, probate, and property law. A few years ago **O'Connor's Online** initiated its service and has been steadily expanding its offerings on www.oconnors.com/online. That coverage now includes Federal Pretrial & Trial Procedural materials – providing Forms, Rules, Statutes, Charts, and helpful Commentaries covering in detail all aspects of Federal civil litigation. Other features include all of Title 28 of the U.S. Code covering the Judiciary and Judicial Procedure, post-judgment practice in trial court, and the Federal Rules of Appellate Procedure. O'Connor's online is a subscription web service only available for use in the Law Library. It is available on three of our seven computer terminals. To find the Federal materials, click in the category "Pretrial & Trial Procedure" after opening the database. For more information, please contact the Law Library.

O'CONNOR'S ONLINE

Community News

- **Fort Bend Lawyers Care** is holding a **Legal Line** every Friday from **10 am to 12 pm** and a **Community Legal Assistance Clinic** on **February 21st** from **6:30 to 8 pm** at the Calvary Episcopal Church. **Volunteer attorneys are needed!** If you would like to help low-income residents and veterans of Fort Bend County, information about volunteering is available by email at Tasha@fortbendlawyerscare.org.
- The **Fort Bend County Criminal Defense Attorney's Association** will host a one-hour CLE at **noon** on Thursday, **February 15th** at County Court at Law # 4 in the Justice Center. It is approved for 1 hour CLE credit. For more information, visit the [FBCCDAA Events webpage](#).
- The **Family Bar of Fort Bend** is hosting a CLE on Friday, **February 28th** at **1:30 pm** at The Swinging Door in Richmond. The program is entitled **"Dividing Retirement Assets"** and has been approved for 1 hour CLE credit. For more information, visit the Family Bar of Fort Bend's website at familybarfortbend.org.
- The **Fort Bend County Law Library** will be **CLOSED** sometime in **2018** for Expansion. The main location in the Justice Center will be **CLOSED** for 3 months. However, the library will be **OPEN** at the **George Memorial Library in Richmond** during this time. We will let you know more later on this year.

Texas Lawyers

Assistance Program

The State Bar of Texas offers confidential assistance to attorneys, judges, and law students who are facing substance abuse and mental health issues through its [Lawyers Assistance Program](#). Professional staff members are available 24/7 by phone to help with crisis counseling and referrals to local professionals and support groups. For assistance, call 1-800-343-8527.

To Include Items in the Newsletter

If you have any information on upcoming CLEs, conferences, etc. that you think would be useful to include in the newsletter, please send an email to abennett@fortbend.lib.tx.us with "Newsletter" as the subject.

Express Class

Need to brush up on your database skills? We are here to help! **Sign up now for an EXPRESS CLASS!** Classes are **15-minutes each**, on **Thursday** mornings from **10 am – 12 pm**. **We teach you the basics of each program.** You can choose from classes such as Westlaw, Hein Online, Adobe Pro, Lexis Advance, Microsoft Office programs and O'Connor's Online. Registration is required. Call **281-341-3718** to register.

To Unsubscribe from the Newsletter

If you do not want to receive the Law Library newsletter, please send an email to abennett@fortbend.lib.tx.us with "Unsubscribe" as the subject and include the email address to be removed.

Texas Case Law Update

Local Cases

- [Howard Grant v. Ariann Grant](#), No. 01-16-00581-CV (Jan. 18, 2018): Aff'd. TC judgment. (387th)
- [D.R. Horton-Emerald v. Mitchell](#), No. 01-17-00426-CV (Jan. 25, 2018): Aff'd. TC judgment. (268th)
- [Mitchell Patrick v. Deutsche Bank](#), No. 01-17-00583-CV (Jan. 25, 2018): Appeal Dism'd WOP.(CCL#5)

Criminal Law

- *Castellanos v. State of Texas*, 533 S.W.3d 414 (Tex.App.-Corpus Christi 2016, pet. ref'd): Defendant was convicted of a Class A Misdemeanor DWI (alcohol) and was sentenced to one year probation. Conviction would have been a Class B, but it was enhanced to a Class A owing to the fact that Defendant's blood-alcohol concentration (BAC) equaled or exceeded .015. On appeal Defendant contended error in convicting for a Class A because the jury never made a finding regarding BAC level. Court of Appeals held that BAC is an element that has to be proven by State at guilt/innocence stage and modified the judgment of the TC thus making the conviction a Class B. Reversed and remanded on punishment.
- *State of Texas v. Martinez*, 534 S.W. 3d 97 (Tex.App.-Corpus Christi-Edinburg 2017): State appealed TC's granting of Defendant's motion to suppress blood sample evidence. Defendant was indicted for intoxication manslaughter. Defendant had been transported to hospital following vehicle collision where blood was drawn for medical purposes. Blood was obtained via grand jury subpoena and then was tested without a warrant being issued. The testing was a search, thus the Court of Appeals held that this warrantless search violated the 4th Amendment and affirmed the suppression of the blood evidence.

Family Law

- *In the Interest of D.W. and K.W., Children*, 533 S.W.3d 460 (Tex.App.-Texarkana 2017): On Petition of Texas Department of Family and Protective Services, parental rights of mother and father were terminated. Both appealed, father on jurisdictional grounds and mother on jurisdiction and factual sufficiency. Court of Appeals found that Gregg County had jurisdiction over father's termination and affirmed it. Mother's appeal also failed as Court of Appeals held that there was jurisdiction and sufficient grounds under the *Holley* factors to determine termination was in the best interests of the children. Affirmed.
- *In the Interest of N.L.W., a Child*, 534 S.W.3d 102 (Tex.App.-Texarkana 2017): Father's parental rights to child were terminated. Mother as joint managing conservator filed petition to terminate the father's parental rights to their child. During the pendency of this litigation she propounded Requests for Admissions on him via his attorney. He never answered the RFAs, never attempted to file late responses, and never moved to amend or withdraw the deemed admissions. These admissions were used as summary judgment evidence that termination was in best interests of child. Termination was accomplished via summary judgment. Father appealed. Court of Appeals stuck to the strict interpretation regarding deemed admissions even when they had such devastating and final effect. Affirmed.
- *In the Interest of J.E.M.M. and L.A.M.M., Children*, 532 S.W.3d 874 (Tex.App.-Houston[14th Dist.] 2017): Mother sought reversal via accelerated appeal challenging legal and factual sufficiency of evidence following termination of her parental rights to two children. The primary occurrence underpinning this was while she was doing laundry at apartment complex facility she was in and out and left two young children in care of 11-year-old, during which one of the children was injured. The Court of Appeals concluded that no evidence supported two of the three predicate grounds and on the third predicate ground there was sufficient evidence to sustain the predicate finding but not to support the best-interest finding. Thus, the Court of Appeals reversed and rendered the TC judgment.

Labor and Employment/Contracts

- *Rieves v. Buc-ee's*, 532 S.W.3d 845 ((Tex.App.-Houston[14th Dist.] 2017): At-will employee quit and employer pursuant to agreement sought repayment of her compensation. Employee filed declaratory judgment action and Buc-ee's was granted summary judgment and awarded approx. \$49,000. Court of Appeals reversed and rendered TC judgment as agreement was unenforceable restraint of trade. Remanded on issue of employee's attorneys' fees.