



LAW LIBRARY NEWS

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Edited by: Andrew Bennett, Law Librarian

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Attorney Lecture Series

On **March 25th at 10 am**, we will have our third **Attorney Lecture Series**. This class we will be focusing on **Nondisclosure and Expunction**. Attorney Annie Scott will discuss the qualifications for both, what forms to file and where to file them, and any pitfalls you may encounter while pursuing this. Registration for this course is required. If you will be unable to attend this course, we will offer it again in May and will record this presentation for viewing in the viewing room upon reservation.

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New & Updated Resources

O'Connor's Texas Series *McCormick on Evidence*

- *Texas Rules * Civil Trial*
- *2020 Edition*
- *2020 Update*

Texas Workers' Compensation Manual *Accommodating Disabilities*

- *2020 Edition*
- *2020 Update*

Texas Limited Liability Companies Manual *City of Rosenberg, Code of Ordinances*

- *2020 Update*
- *2020 Update*

Texas Transaction Guide *Federal Practice and Procedure*

- *2020 Update*
- *January 2020 Update*

Texas Practice Guide *Texas Personal Injury Handbook*

- *2020 Pocket Part Updates*
- *2020 Edition*

FBC Bar News

Fort Bend County Bar Association

The **February luncheon and meeting** of the **Fort Bend County Bar Association** will be at **noon on February 27th** at the Sugar Creek Country Club located at 420 Sugar Creek Blvd., Sugar Land, Texas. This program is entitled **"Overview of Marijuana Evidence for Criminal and Liability Cases."** The speaker will be Sol Bobst. The program is approved for 1 hour CLE credit and .25 hours ethics credit. The luncheon cost is \$30 for members and \$40 for nonmembers. Please **RSVP** by Tuesday, **February 25th**.

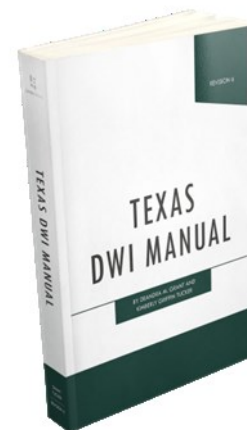
Family Bar of Fort Bend County

The **March luncheon and meeting** of the Family Bar of Fort Bend County will be on **Thursday, February 5th at noon** at Buena Vista Restaurant on 100 Liberty St, Richmond Texas. These CLE's are **FREE** to members and are approved for .75 hours CLE credit. **RSVP is not required.** Please pay for your own lunch.

Featured Resource: *Texas DWI Manual*

By Jonathan Briggs

Driving while intoxicated is a criminal offense that is a regular subject of prosecutions in the County Courts at Law (misdemeanor) and District Courts (felony) of Fort Bend County. Many of the criminal defense attorneys who frequent the Law Library defend these types of cases and the District Attorney's office down the hall prosecutes them. The ***Texas DWI Manual*** from James Publishing is a well-regarded and well-used part of our print and digital library. We have recently received the 6th Revision of this book authored by Deandra Grant and Kimberly Tucker, both experienced Texas attorneys in DWI defense. Over 12 chapters and hundreds of pages the authors provide in-depth discussion and corresponding forms on such topics as Investigation of the Case and DWI Discovery; Administrative Hearings and Occupational Licenses; Field Sobriety Tests; Breath Test Cases; Blood Alcohol Test Cases; Driving Under the Influence of Drugs; Punishment issues; Preserving Error and Appeal; Expunctions and Orders of Nondisclosure; Elements of the Offense; Bond and Jail Release Considerations; and Charging Instruments. In addition to the print copy we also maintain this publication on the desktop of all our computers in the James Publishing folder in Word format. The *Texas DWI Manual* is also included in our subscription to Lexis Advance as part of the Texas collection of secondary resources/practice guides and is available in its entirety via the Lexis icon on the desktop of computers 4 through 6. Copies of the book and printouts can be made for 10 cent a page. Downloading pages to your thumb drive or receiving portions of the publication via e-mail are free. It is also available via the Lexis Digital Library that can be accessed with your library card through the Fort Bend Library System webpage. For more information please contact the Law Library.

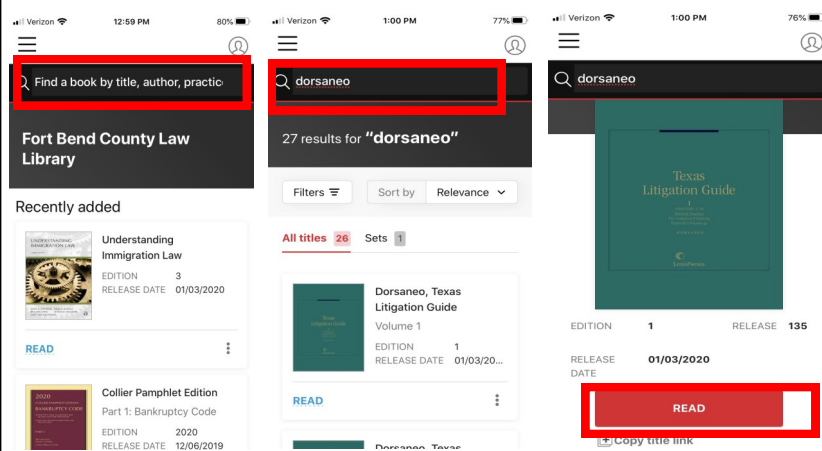


Technology Corner: *Lexis Digital Library App*

By Andrew Bennett



Lexis Digital Library now offers an app on both Android and Apple so that you can search and download content faster. To do this, go to your app store on your phone. Search for “Lexis Digital Library” and download it to your phone. The app is free. Then once you open the app, you will enter the Fort Bend County Libraries’ code which is “fortbendco.”



Next, you will need your library card barcode and PIN. Now you are in and you can search, read, and check out any books in the collection from your phone or tablet. From the app, you can also make tags and annotations so that you can refer to the resources later. For more information or a demonstration, visit the Law Library.

Community News

- The **Fort Bend County Law Library** has its **Pro Se Basics Classes** on **Tuesday's at 10 am**. These classes focus on Procedural Information and Legal Resources for Pro Se's in Court. Contact the Library for dates and classes. Registration is required. Contact the Law Library at 281-341-3718 or online.
- The **Fort Bend County Law Library** has its **Express Classes** on **Thursday's at 10 am**. These classes focus on Technology Software you can use in your practice. Contact the Library for dates and classes. Registration is required. Contact the Law Library at 281-341-3718 or online.
- The **Fort Bend County Bar Association** is having a CLE in County Court at Law #1 on **Practicing Probate in CCL # 1** on Monday, **February 24th** at 9 am. It is **mandatory for those seeking Amicus Ad Litem or Guardianship Ad Litem appointments** in County Court at Law # 1. It is approved for .5 hours MCLE credit. No RSVP required.
- The **Fort Bend County Law Library** will have a **Lexis Advance Training and CLE** on **March 13th** at 10 am here in the Law Library in Conference Room C. This course is entitled **Diving Deeper into Legal Research Potential: Advanced Online Legal Research Concepts** and will focus on more in-depth case law, statute and form searching. Attorneys in attendance will receive **1 hour CLE** credit. Registration is required.
- The **Harris County Law Library** offers the **Legal Tech Institute** where you can learn new technology skills for your practice. Many of these courses offer 1 hour of **FREE CLE Credit**. Please visit their website at <http://www.harriscountylawlibrary.org/legal-tech-institute-events>. There you can find dates and times of classes. Registration is required.
- The **Wharton County Junior College Paralegal Program** will be offering some new classes. The new classes that the Studies Program will offer begin **Fall 2019**. They are offering a **Immigration Law Course** during spring 2020. Both courses will initially be offered in a face to face format at the Richmond Campus. For more information on the program, visit their website at <https://www.wcjc.edu/Programs/technology-and-business/paralegal-studies/>.

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.

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

- [Kathryn Pasch, et al., v. TLMA, LLC, et al.](#), No. 01-19-00295-CV (January 16, 2020): Appeal Dismissed. (434th)
- [Carolyn Dawson, et al., v. Liberty Mutual Insurance](#), No. 01-19-00418-CV (January 28, 2020): Appeal Dismissed. (268th)
- [Christian S. Williams v. The State of Texas](#), No. 01-17-00945-CR (February 11, 2020): Aff'd. TC Judgment. (434th)
- [Data Management Solutions Corp. v. Upstream Energy Services, LP](#), No. 14-18-00651-CV (January 23, 2020): Appeal Dismissed (268th)
- [The State of Texas v. Matt Tahmasebi](#), No. 14-19-00909-CR (January 23, 2020): Appeal Dismissed. (CCL#3)
- [In Re Maggy Horgan](#), No. 14-19-00786-CV (January 28, 2020): Appeal Dismissed. (328th)
- [Keeble Lovall, et al., v. U.S. Bank Natl. Assoc., et al.](#), No. 14-18-00690-CV (February 4, 2020): App. Dism'd. (CCL#5)
- [Brian M. Corpian v. Carrington Mortgage Services, LLC](#), No. 14-19-01013-CV (February 4, 2020): Appeal Dismissed. (458th)
- [Kyon A. Mitchell v. The State of Texas](#), No. 14-18-00171-CR (February 4, 2020): Aff'd. TC Judgment. (400th)
- [Horace J. Randolph, II v. The State of Texas](#), No. 14-18-00647-CR (February 4, 2020): Aff'd. TC Judgment. (458th)

Civil Litigation/Landlord-Tenant—Commercial

Frank Zhang and Daxwell Group, LLC v. Capital Plastic & Bags, Inc., 587 S.W.3d 82 (Tex.App.-Houston [14th Dist.] 2019, pet. filed): Plaintiff Capital Plastic & Bags (CPB), a commercial tenant of a manufacturing facility sued its former landlord for breach of contract and violation of Section 93.011 of the Texas Property Code alleging that they retained its \$34,560 security deposit in bad faith. Plaintiff had surrendered the premises and keys in accordance with the lease provisions. Defendants did not return the deposit within 60 days nor did they provide an accounting on this issue as required by Sec. 93.011 (d). A failure to do abide by this section results in a presumption of bad faith on the part of the landlord. Defendants counterclaimed for \$146,304 for breach of contract, etc. Following a bench trial before a Harris County District Court a judgment was entered in favor of Plaintiff on all of its claims and for the bad faith violation which tripled the damages (3 times the deposit withheld) and the court found for Plaintiff on all Defendants' counterclaims. Defendants appealed on three issues. The primary issue was the trial court's finding that the Defendants failed to overcome the bad-faith presumption. In a lengthy opinion the Court of Appeals held that Defendants/Appellants had the burden to overcome the presumption of bad faith....they needed to show that their retention of the security deposit was reasonable and their failure to account was excused...and they did not carry this burden. The evidence at trial supported the court's judgment. Affirmed.

Criminal Law/Jury Argument at Punishment Phase

Edward J. Torres v. The state of Texas, 587 S.W.3d 503 (Tex.App.-Houston [14th Dist.] 2019, pet. re'f'd.): Defendant was convicted of robbery in Harris County District Court arising out of a incident where the victim was boxed in by two vehicles and robbed at gunpoint. Though charged with aggravated robbery the jury convicted him of the lesser offense of simple robbery. Defendant appealed bringing three issues: 1) the denial of his motion for mistrial; 2) the trial court's comments regarding his punishment; and, 3)the trial court's admission of opinion testimony. The entire opinion is worth reading and it is not lengthy. Of particular interest is the mistrial issue. Defendant/Appellant took issue with the prosecutor's argument during the punishment phase regarding parole eligibility. While there are already instructions in the charge regarding parole eligibility Defendant contended that during summation the State made improper argument....essentially doing the math for the jurors and telling them how soon Defendant could be out and informing them of the possible effect on certain sentence, stating if the jury gave "him the minimum five years" he is "parole eligible in 1.25 years." Defense counsel's second objection on this argument was finally sustained with the court telling the jury to "Disregard the math process of parole. It's merely an option that may be in his future one way or the other." Defendant motion for mistrial was denied. The Court of Appeals found nothing improper in this argument, reasoning that the State "simply ensured that the jury understood the language set out in the instructions" and it was not prejudicial misconduct or an extreme situation that the court needed to cure by mistrial. Affirmed.

Family Law/Mediated Settlement Agreement (MSA)

Charles Highsmith v. Meredith Highsmith, 587 S.W.3d 771 (Tex. 2019): Divorce case where the primary issue before was whether an MSA as to property division executed before the filing of suit can satisfy the requirements of the Family Code. The Supreme Court held that it can but it also found that the spouse did not get proper notice of the hearing on the entry of judgment. Aff'd in part, rev'd. in part, and remanded.