



LAW LIBRARY NEWS

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Update on Law Library Procedures

Currently, the **Fort Bend County Law Library** is **CLOSED** to the general public. We are open to attorneys on a limited basis. **However, we are working on procedures and guidelines for reopening in the very near future.** This includes number of people in the library and social distancing. Please continue to follow our Facebook page and our website for updates. Our website is www.fortbend.lib.tx.us.

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New & Updated Resources

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| <i>O'Connor's Texas Series</i> | <i>Social Security Disability Practice</i> |
| • <i>Civil Appeals</i> | • <i>2020 Update</i> |
| • <i>2020 Edition</i> | |
| <i>Texas Family Law Practice Manual</i> | <i>O'Connor's Federal Series</i> |
| • <i>2020 Edition</i> | • <i>Civil Forms</i> |
| | • <i>2020 Edition</i> |
| <i>Texas Practice Series</i> | <i>Suppressing Criminal Evidence</i> |
| • <i>Courtroom Handbook on Texas Evidence</i> | • <i>2020 Update</i> |
| • <i>2020 Edition</i> | |
| <i>Texas Family Law Practice and Procedure</i> | <i>Texas Litigation Guide</i> |
| • <i>2020 Update</i> | • <i>2020 Update</i> |
| <i>Texas Oil and Gas</i> | <i>Texas Criminal Practice Guide</i> |
| • <i>2020 Update</i> | • <i>2020 Update</i> |

FBC Bar News

Fort Bend County Bar Association

The Fort Bend County Bar Association will likely have another Zoom CLE in July. Date and topic TBD

Family Bar of Fort Bend County

The Family Bar will be having a **FREE** webinar on Friday **June 19th** at **noon**. The topic will be **“Things We Can't Help You With”** presented by Judge Armatys and Judge Millard. Attendees will receive .75 MCLE and .5 Ethics credit. Information will be sent out closer to the date.

Please check updated court procedures on the Fort Bend County website at www.fortbendcountytexas.gov.



Featured Resource: O'Connor's Texas Causes of Action Pleadings

So you want to file a civil lawsuit? Or do you need to respond to a lawsuit that has been filed against you or your client? Whether you are a self-represented/pro se party or an attorney, an indispensable resource in this situation is O'Connor's Texas Causes of Action Pleadings from publisher Thomson Reuters. The Law Library has recently received the updated 2020 edition of this well-regarded book of forms. It begins with a chapter on General Pleadings such as Plaintiff's Petition, Defendant's Answer, and other components of a pleading such as the Style, Signature Block, and Certificate of Service. This is then followed by dozens of chapters providing Petitions, Answers, and related pleadings for all manner of causes of action such as Contracts, Assault, Negligence, Landlord-Tenant, and Insurance-related claims. Within each of these chapters are then pleadings for subcategories of these main legal issues...for example, in the chapter on Contracts, in addition to forms for breach there are pleadings for claims under the quantum merit theory, suits on a sworn account, and tortious interference with contract. There also forms related to damages, interests, courts costs, and attorney fees. In a short column such as this it is difficult to really describe how in-depth this book is. We also have the companion practice guide, O'Connor's Texas Causes of Action 2020 which provides an incredible amount of detail and information concerning all manner of legal theories, causes of action, and defenses that can be asserted in Texas trial courts. Further, each of these publications along with all the O'Connor's collection is available online via the Westlaw database found on several of the Law Library's public computers. From here forms and sections of these books can be downloaded to your thumb drive or e-mailed to you in Word, Word Perfect, or PDF for free. Copies of the book and printouts can be made for 10 cent a page. For more information please contact the Law Library.



Technology Corner: Replays of Law Library Classes



Starting in June, the Law Library has been giving online virtual Pro Se Basics and Express Classes over Zoom! For your convenience, we have been recording these classes for those who cannot attend. You can find these recordings on our Facebook page. Classes so far have included Introduction to Legal Research, Family Law 101, Converting Documents in Adobe Pro DC, and Creating PowerPoint Presentations. Upcoming classes for the rest of June

include Family Law 102, Probate 101, Introduction to Lexis Advance, Basics of Hein Online, and Advanced Legal Research. Check out our website at www.fortbend.lib.tx.us for times and topics. Please make sure you register on our website as well for these classes if you wish to watch them LIVE so we can send you the Zoom login information. We will email that to you the day before the event. Be sure to like our page on Facebook so you can find more of our videos including Legal Informational Videos and replays of our Attorney Lecture Series!



Community News

- The **Fort Bend County Law Library** has started **virtual classes** including **Pro Se Basics** and **Express Classes**. Check out schedule at <https://www.fortbend.lib.tx.us/about-us/location-hours-map/law-library>.
- The **Fort Bend County Law Library** will have two **Westlaw CLE's** in July. Both classes will be virtual. The dates will be **July 8th** and **June 22nd**. Visit our website in late June for registration and info.
- The **Fort Bend County Law Library** will be hosting an **Attorney Lecture Series** on **July 17th** at 2 pm. More information on this to come. This is a reschedule of our class from April. It will focus on Family Law. Class will be given by Attorney Scott Broussard.
- The **Texas State Law Library** has a lot of **digital resources** at your disposal. Please **create a digital library account** for access. For more information, visit their website at <https://www.sll.texas.gov/about-us/get-a-library-account/>.
- **Re:search TX** allows you to research case law from all 254 Texas Counties. Some documents do require payment to access. Account set up is free. Go to <https://research.txcourts.gov/CourtRecordsSearch/Home>. Or you can check out Google Scholar for case law research at <http://scholar.google.com>.
- **E-File Texas** allows you to file your documents electronically to Fort Bend County courts or any other courts in the state of Texas. Go to <http://www.efiletexas.gov/>.

Texas Lawyers

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,

To Include Items

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

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

At this time we are not able to provide the recent dispositions of Fort Bend County cases in the 1st and 14th Court of Appeals because the website of the Texas Judicial Branch (www.txcourts.gov) was hacked in May and has not been restored to full functionality. Thus, we were not able to view the recently released opinions of these two courts. Hopefully it is back up and running in time for our next newsletter.

Family Law/Modification

Woodrow A. Nellis v. Melissa Haynie and Blair Haynie, 596 S.W.3d 920 (Tex.App.-Houston[1st Dist.] 2020, no pet. h.): An order had been issued removing the father/Appellant as managing conservator and appointing the paternal grandmother and her husband as non-parent managing conservators. The order also appointed the father as possessory conservator and severely limited his time with his child to one 4-hour supervised visit per month. Father sought to modify this order. Briefing and the record showed that the parents of the child had “problematic and unstable lives” and he used drugs. A previous order issued in 2010 had named the parents as joint managing conservators and naming the mother as the parent with the right to designate the child’s primary residence. Father was granted standard visitation. The child’s mother died in 2015 and the child began to live with his father and with his grandparents. Later in 2015 the grandparents filed a petition to modify seeking temporary conservatorship alleging that the father was impairing the safety and well-being of the child, though the court did not take immediate action on this petition. The Department of Family and Protective Services then got involved and was granted conservatorship, though it later nonsuited its case against the father citing its lack of need to remain conservator of the child. After a non-jury trial the court apparently finally ruled on the grandparents petition to modify appointing them as joint managing conservators and the father as possessory conservator with limited supervised visitation and child support obligor. Six month later the father sought to modify alleging changed circumstances. Grandparents responded by filing a Motion to Deny Relief”, a hearing was quickly held without allowing the parties to put on evidence, and the court dismissed his petition to modify. This failure to hold an evidentiary hearing is the basis for the father’s appeal here. Under Texas law whether there was a material and substantial change warranting modification is a question of fact to be determined upon a showing of evidence. The Court of Appeals held that the trial court erred in dismissing the father’s modification petition solely on the pleadings and argument of counsel and without an evidentiary hearing. Reversed and remanded.

Criminal Law

David A. Villarreal v. The State of Texas, 596 S.W.3d 338 (Tex.App.-San Antonio 2019, pet. filed): Defendant was convicted of murder as a repeat offender and sentenced to 60 years in prison, He made his appeal on two grounds. In this brief we look at Appellant’s second issue. Villarreal contended that the trial court erred in limiting his ability to confer with his attorney during an overnight recess in the trial of the case in violation of his Sixth Amendment right to counsel under the U.S. Constitution. The recess came during the time that the Appellant was testifying on direct examination. The court admonished the Appellant and his counsel that they were not to discuss his testimony as they cannot confer while he is on the stand though recognizing that they could not be ordered to refrain from conferring completely confer. The judge left it to the discretion of the defense attorney to conduct himself accordingly in light of the court’s instructions. Counsel for Appellant objected. The Court of Appeals reviewed 6th Amendment case law including the *Geders* case from the U.S. Supreme Court which concerns conferring with counsel during a recess while the defendant on the stand. The San Antonio court discussed these cases, stating: “The Supreme Court, therefore, has recognized the trial court may prevent a testifying defendant from discussing his ongoing testimony with his counsel but may not prohibit the defendant and his counsel from discussing matters “that go beyond the content of the defendant’s own testimony,” such as trial strategy. *See id.* In this case, the trial court tried to thread the needle by advising Villarreal that he could talk to his attorneys during the overnight recess but instructing Villarreal’s attorneys not to discuss “what you couldn’t discuss with [Villarreal] if he was on the stand in front of the jury.... His testimony.” The Appeals Court regards this particular situation as one of first impression in Texas with other courts at the federal and state level reaching different conclusions. The Court of Appeals thus held that “the trial court had discretion to limit Villarreal’s right to confer with his attorneys during an overnight recess to topics other than his ongoing testimony.” With both of Appellant’s issues overruled the trial court was affirmed. There was a lengthy dissent and the Appellant has filed a petition for discretionary review.