



LAW LIBRARY NEWS

a publication of the Fort Bend County Law Library

Edited by: Andrew Bennett, Law Librarian

November 2019 ♦ Volume 26, Issue 11

Attorney Lecture Series

In November and December, we will be hosting an **Attorney Lecture Series** given by Attorney Ira Domnitz. He will cover issues regarding **Self Publishing and Intellectual Property**. This will include creating copyrights and trademarks, where to find and file the paperwork, accessing publishing markets, and more. The first program will be on **November 20th** at 10 am and the second will be **December 11th** at 2 pm. Registration is required. It will open on the first week of November.

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New & Updated Resources


O'Connor's Texas Series

- *Business Organizations Code*
- *Business & Commerce Code*
- *Probate Law Handbook*

Texas Insurance Coverage Litigation

- *2019 Edition* 

Pronske's Texas Bankruptcy

- *2019 Edition* 

Texas Practice Guide

- *Torts*
- *Evidence*
- *2019 Editions*

Texas Drunk Driving Law

- *2019 Edition*


Texas Bar CLE 2019

- *Advanced Family Law*
- *Advanced Criminal Law*
- *Advanced Estate Planning & Probate*

Representing People with Mental Disabilities

- *2018 Edition* 

Microsoft Office 2019: Step by Step

- *2019 Pub Date* 

Adobe Premiere Pro CC

- *2019 Edition* 

Texas Foreclosure Manual

- *2019 Update*

FBC Bar News

Fort Bend County Bar Association

There is not a November meeting and CLE.

There will be a **Coffee with the Court** on Thursday, **December 12th** at **9 am** in County Court at Law # 1. It is approved for .5 CLE hours.

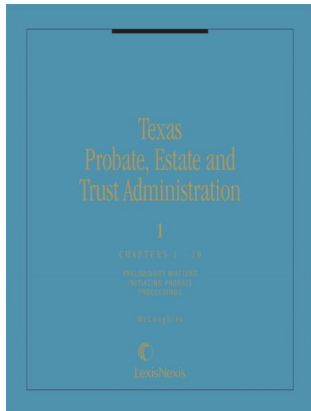
Family Bar of Fort Bend County

The **December luncheon and meeting** of the Family Bar of Fort Bend County will be on **Thursday, December 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 Probate and Estate Planning Resources*

By **Andrew Bennett**



In conjunction with our Attorney Lecture Series for January, we wanted to let you know about what Probate and Estate Planning Resources we have in print at the Law Library. First, and likely the most important resource, is the *Texas Probate, Estate, and Trust Administration* from Matthew Bender. This loose leaf set encompasses all you need to know about Probate, Estates, and Trusts in Texas. It also includes background information, links to primary law, checklists and strategies, and any forms you may need. This title also has a digital copy on both Lexis Advance and Lexis Digital Library. In addition to this title, we also have *Texas Probate Forms and Procedures* and *Texas Estate Planning* from James Publishing. These titles are unique because of the way the forms are laid



out. All forms are already laid out in almost fill in the blank style. Each form also includes a Word copy of the form on all of our computers. Finally, what would a print collection be without the O'Connor's guides. Now published by Thomson Reuters, the O'Connor's guides includes the annotated *Texas Estates Code Plus*, the *Texas Probate Handbook*, and *Texas Estate Planning Forms*. What makes these titles unique, and is common in all O'Connor's guides, is the easy to follow layout that makes finding a section of the code, a commentary in the handbook, or a form easy to find. You can get to all of the digital copies of these books through Westlaw. For more information, visit the Law Library!

Technology Corner:

By **Jonathan Briggs**



Estate and probate is an area of the law that will likely impact everyone in some manner. But, statistics consistently show (from such varied sources as the AARP and LexisNexis) that roughly 60% of adults do not even have a will. It is not just standard wills that people lack or are even aware of: there are designations that can be made and forms that can be executed with your financial institutions to simplify things; there are documents that can make wishes clear and decisions easier regarding medical and end of life care; controlling who takes care of your children in the event of your death; the disposition of real property between spouses and family members can be removed from the probate process; guardianship for incapacitated adults; etc. The list of issues and concerns related to this area of the law is vast. There are documents and procedures that

can be used to direct and simplify some of the most important life and end-of-life issues and to cover all manner of estate planning and probate procedures. On January 10, 2020, Kerri Graham, a local attorney specializing in estate, probate, and guardianship law will be giving a presentation on issues and considerations relevant to the general public and attorneys. In advance of these classes we wanted to highlight the up-to-date online resources available at the Law Library. Westlaw and Lexis both provide full coverage of statutes and cases on estate, trust, and probate law. These databases also provide forms and practice guides useful to the practitioner and lay-person. Westlaw has the full text of O'Connor's *Probate Law Handbook*, *Texas Estates Code Plus*, *Texas Probate Forms*, and *Davis's Texas Estate Planning Forms*. The *Texas Practice Series* has volumes on "Probate & Decedent's Estates" and the "Law of Wills." The *Texas Practice Guide* has volumes on Probate and Wills, Trusts, & Estate Planning. Lexis has *Texas Probate, Estate, and Trust Administration*, a definitive manual and practice guide that has detailed information and forms. Many estate and probate items can be found in James Publishing's materials: *Texas Estate Planning Forms*, *Texas Probate Forms & Procedures*, and in their *Small-Firm Practice Tools*. The six County Courts at Law serve as the probate courts for Fort Bend and there is also information and forms on the county website. We hope you can attend Ms. Graham's lecture. For more information, please contact the Law Library.

Community News

- **Fort Bend Lawyers Care** is holding a **Legal Line** every Friday from **10 am to 12 pm**. **Volunteer attorneys are needed!** If you would like to help low-income residents and veterans of Fort Bend County, contact by email at Simmons@fortbendlawyerscare.org.
- 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 Law Library and the Justice Center** will be **CLOSED** on Thursday **November 28th and 29th** for Thanksgiving.
- The **Fort Bend County Law Library** having it's **30th Anniversary Open House** on **January 10, 2020** from **9 am to 3 pm** in the Law Library. The Open House will have a variety of programs including an Attorney Lecture Series on Estate Planning, a Westlaw Training and CLE, and a training class on the new Re:Search Texas! More information on these classes will be closer to the date.
- 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 two new classes. The new classes that the Studies Program will offer begin **Fall 2019**. They are offering a **Torts/Personal Inquiry Course** during fall 2019 and an **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

- [Zachary J. Williams v. Max B. Martin](#), No. 01-19-00340-CV (October 15, 2019): Appeal Dismissed. (434th)
- [Radika Shah, Ind. and as Rep. of Charm Dental, et al. v. Aretha Davis, Ind. and as Rep. of Luna Design Group, et al.](#), No. 01-19-00600-CV (October 15, 2019): Appeal Dismissed. (CCL#1)
- [Jack Permison v. Carrie Morris and Dave Ward](#), No. 01-18-00392-CV (October 29, 2019): Aff'd. TC Judgment. (400th)
- [Carolyn R. Dawson v. Kevin Pakenham](#), No. 01-19-00572-CV (October 29, 2019): Appeal Dismissed. (CCL#1)
- [In Re Bobby Wootton and Mary Wootton d/b/a M. Wootton Construction](#), No. 14-19-00723-CV (October 29, 2019): Pet. Writ. Mand. Denied. (434th)
- [Chiron S. Francis v. The State of Texas](#), No. 14-17-00958-CR (October 29, 2019): Aff'd. TC Judgment as Modified. (268t)
- [Amit D. Patel v. The State of Texas](#), No. 14-18-00835-CR (October 31, 2019): Appeal Dismissed. (434th)

Criminal Law/Expunction

In the Matter of the Expunction of A.H., 580 S.W.3d 841 (Tex.App.-El Paso 2019, no pet. h.): Appeal out of El Paso County following denial of defendant's petition for expunction. Defendant had been indicted by a grand jury on seven counts of sexual assault of a child and indecency with a child involving foster children in his and his wife's care. A week before trial the prosecutor filed a motion to dismiss all charges citing "prosecutorial discretion" as the sole basis. Defendant subsequently filed for expunction of the records (technically a civil action) for these charges pursuant to Art. 55.01 of the Texas Code of Criminal Procedure. In support of his petition Defendant alleged that all of the charges against him had been dismissed, no charges were currently pending, and he was never convicted of any of the charges and/or placed on community service for any of the offenses for which he was arrested. The County asserted in opposition that these factual allegations were insufficient to for expunction and that Defendant was also required to plead and prove the existence of one of the following two additional conditions under the expunction statute: (1) the applicable statute of limitations had run on all of the charged offenses thereby prohibiting a future prosecution, or (2) the prosecutor's dismissal of the indictment was based on a determination that the presentment of the indictment was "made because of mistake, false information, or other similar reason indicating absence of probable cause at the time of the dismissal to believe the person committed the offense." The trial court granted the petition finding that the "State of Texas' dismissal [of the indictment] indicates absence of probable cause at the time of dismissal to believe the petitioner committed the offense." The County appealed. It was key to the El Paso Court of Appeals that the expunction statute requires the trial court to find that the prosecutor dismissed the indictment due to a "mistake, false information, or other similar reason" indicating the absence of probable cause in the presentment of the indictment. But in this case the trial court made no such finding. Further, the record reveals that defendant presented no evidence that would have justified the trial court in making this required finding. There is nothing in the record to indicate that the victims' statements were later determined to be false or mistaken. Defendant presented no evidence that any of the victims had recanted their statements or that any new exculpatory evidence had come to light that would have called into question the validity of the evidence upon which the grand jury relied in making its decision to indict. They concluded that defendant did not meet his burden of establishing that he was entitled to an expunction under Article 55.01(a)(2)(A)(ii)(c) of the Texas Code of Criminal Procedure. The Court of Appeals thus reversed the trial court's order and rendered judgment denying the expunction.

Civil Litigation/Debt Collection

Isameera Arshad and Almorfa, LLC v. American Express Bank, FSB, 580 S.W.3d 798 (Tex.App.-Houston [14th Dist.] 2019, no pet. h.): Defendants to a credit card debt collection suit appealed the \$316,000 judgment claiming factual and legal insufficiency on the breach of contract claim. Essentially Defendants argued that there is no contract because they did not sign anything. However, the Court of Appeals cited to law stating that "Although signatures and delivery evince the mutual assent required for a contract, they are not essential." The Cardmember Agreement states: "When you or an Additional Cardmember...use the Account (or sign or keep a card), you and the Additional Cardmember agree to the terms of the Agreement." This and Defendants' multiple other issues were all overruled and the judgment of the trial court was affirmed. (a long opinion worth reading as these suits are common).

Civil Litigation/Choice of Law

Toyota Motor Co. v. Linda Cook, et al., 581 S.W.3d 278 (Tex.App.-Beaumont 2019, no pet. h.): Appeal out of Jefferson County in a multi-party consolidated case involving fatalities and injuries to Texas tourists sustained in a van accident in Mexico. Vehicle was only marketed to and sold in Mexico. In a lengthy and detailed choice of law opinion the Court of Appeals found that the trial court erred in applying only Texas law to all issues. Using the Restatement's "most significant relationship test" it was determined that Mexican law applies to the liability and punitive damages issues and Texas law controls on compensatory damages. Reversed and remanded.

For more information on recent cases, visit the Law Library.