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Supreme Court of Texas Update

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SUPREME COURT OF TEXAS UPDATE

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TABLE OF CONTENTS

| | |
|--|---|
| I. SCOPE OF THIS ARTICLE | 1 |
| II. ADMINISTRATIVE LAW | 1 |
| A. Exhaustion of Administrative Remedies | 1 |
| 1. <u>Clint Indep. Sch. Dist. v. Marquez</u> , 487 S.W.3d 538 (Tex. Apr. 1, 2016) [14-0903]..... | 1 |
| 2. <u>McIntyre v. El Paso Indep. Sch. Dist.</u> , S.W.3d , 59 Tex. Sup. Ct. J. 1387 (Tex. June 24, 2016) [14-0732] | 2 |
| B. Public Information Act | 2 |
| 1. <u>Paxton v. City of Dallas</u> , 453 S.W.3d 580 (Tex. App.—Austin 2014), <i>pet. granted</i> , 59 Tex. Sup. Ct. J. 359 (Feb. 19, 2016) [15-0073], <i>consolidated with</i> , <u>Paxton v. City of Dallas</u> , 2015 WL 601974 (Tex. App.—Corpus Christi 2015), <i>pet. granted</i> , 59 Tex. Sup. Ct. J. 359 (Feb. 19, 2016) [15-0238] | 2 |
| C. Public Utility Commission | 3 |
| 1. <u>Oncor Elec. Delivery Co. v. Pub. Util. Comm’n</u> , 450 S.W.3d 615 (Tex. App.—Austin 2014), <i>pet. granted</i> , 59 Tex. Sup. Ct. J. 359 (Feb. 19, 2016) [15-0005] | 3 |
| D. Texas Alcoholic Beverage Commission | 3 |
| 1. <u>Cadena Comercial USA Corp. v. Tex. Alcoholic Beverage Comm’n</u> , 449 S.W.3d 154 (Tex. App.—Austin 2014), <i>pet. granted</i> , 59 Tex. Sup. Ct. J. 939 (May 27, 2016) [14-0819] | 3 |
| III. ARBITRATION | 4 |
| A. Judicial Review | 4 |
| 1. <u>Cardwell v. Whataburger Rests. LLC</u> , 484 S.W.3d 426 (Tex. Feb. 26, 2016) [14-1019] | 4 |
| 2. <u>Hoskins v. Hoskins</u> , S.W.3d , 59 Tex. Sup. Ct. J. 895 (Tex. May 20, 2016) [15-0046] | 4 |
| B. Waiver of Arbitration | 5 |
| 1. <u>RSL Funding, LLC v. Pippins</u> , S.W.3d , 59 Tex. Sup. Ct. J. 1528 (Tex. July 1, 2016) [14-0457] | 5 |
| IV. ASSET FORFEITURE | 5 |
| A. Exclusionary Rule | 5 |
| 1. <u>State v. One (1) 2004 Lincoln Navigator</u> , S.W.3d , 59 Tex. Sup. Ct. J. 1103 (Tex. June 10, 2016) [14-0692] | 5 |
| V. ATTORNEYS | 6 |
| A. Disqualification | 6 |
| 1. <u>In re RSR Corp.</u> , 475 S.W.3d 775 (Tex. Dec. 4, 2015) [13-0499] | 6 |
| B. Legal Malpractice | 7 |
| 1. <u>Stanfield v. Neubaum</u> , S.W.3d , 59 Tex. Sup. Ct. J. 1495 (Tex. June 24, 2016) [15-0387] | 7 |
| VI. CONSTITUTIONAL LAW | 7 |
| A. Home Equity Loans | 7 |
| 1. <u>Garofolo v. Ocwen Loan Servicing, L.L.C.</u> , S.W.3d , 59 Tex. Sup. Ct. J. 920 (Tex. May 20, 2016) [15-0437] | 7 |

| | |
|--|----|
| 2. <u>Wood v. HSBC Bank USA, N.A.</u> , S.W.3d , 59 Tex. Sup. Ct. J. 877 (Tex. May 20, 2016) [14-0714]..... | 8 |
| B. School Finance | 9 |
| 1. <u>Morath v. Tex. Taxpayer & Student Fairness Coalition</u> , S.W.3d , 59 Tex. Sup. Ct. J. 771 (Tex. May 13, 2016) [14-0776] | 9 |
| C. Takings | 9 |
| 1. <u>Harris Cty. Flood Control Dist. v. Kerr</u> , S.W.3d , 59 Tex. Sup. Ct. J. 1185 (Tex. June 17, 2016) [13-0303] | 9 |
| VII. CONTRACTS | 10 |
| A. Damages | 10 |
| 1. <u>Bank of Am., N.A. v. Eisenhauer</u> , 474 S.W.3d 264 (Tex. Oct. 30, 2015) [14-0486].. .. | 10 |
| B. Illusory Promise | 10 |
| 1. <u>Fischer v. CTMI, L.L.C.</u> , 479 S.W.3d 231 (Tex. Jan. 8, 2016) [13-0977] | 10 |
| VIII. DAMAGES | 11 |
| A. Civil Penalties | 11 |
| 1. <u>Wal-Mart Stores, Inc. v. Forte</u> , S.W.3d , 59 Tex. Sup. Ct. J. 905 (Tex. May 20, 2016) [15-0146]..... | 11 |
| B. Misappropriation | 12 |
| 1. <u>Sw. Energy Prod. Co. v. Berry-Helfand</u> , S.W.3d , 59 Tex. Sup. Ct. J. 1080 (Tex. June 10, 2016) [13-0986] | 12 |
| C. Punitive Damages | 12 |
| 1. <u>White v. Davis</u> , 475 S.W.3d 783 (Tex. Dec. 4, 2015) [15-0176] | 12 |
| IX. ELECTIONS | 13 |
| A. Expenses | 13 |
| 1. <u>Cascos v. Tarrant Cnty. Democratic Party</u> , 473 S.W.3d 780 (Tex. Oct. 30, 2015) [14-0470] | 13 |
| B. Referendums | 13 |
| 1. <u>In re Dorn</u> , 471 S.W.3d 823 (Tex. Sept. 4, 2015), <i>concurrency to and dissent from denial of a petition</i> [15-0632] | 13 |
| 2. <u>In re Williams</u> , 470 S.W.3d 819 (Tex. Aug. 19, 2015) [15-0581] | 14 |
| X. EMPLOYMENT LAW | 14 |
| A. Law Enforcement Officers | 14 |
| 1. <u>Colorado Cty. v. Staff</u> , 470 S.W.3d 251 (Tex. App.—Houston [1st Dist.] 2014), <i>pet. granted</i> , 59 Tex. Sup. Ct. J. 1157 (June 17, 2016) [15-0912] | 14 |
| B. Whistleblower Actions | 15 |
| 1. <u>McMillen v. Tex. Health & Human Servs. Comm’n</u> , 485 S.W.3d 427 (Tex. Feb. 26, 2016) [15-0147] | 15 |
| 2. <u>Office of the Att’y Gen. v. Weatherspoon</u> , 472 S.W.3d 280 (Tex. Sept. 18, 2015) [14-0582] | 15 |
| XI. FAMILY LAW | 15 |
| A. Child Support | 15 |
| 1. <u>Ochsner v. Ochsner</u> , S.W.3d , 59 Tex. Sup. Ct. J. 1359 (Tex. June 24, 2016) [14-0638].. .. | 15 |

| | |
|---|----|
| B. Divorce Decrees | 16 |
| 1. <u>Kramer v. Kastleman</u> , 2014 WL 3809759 (Tex. App.—Austin July 30, 2014), <i>pet. granted</i> , 59 Tex. Sup. Ct. J. 939 (May 27, 2016) [14-1038] | 16 |
| XII. GOVERNMENTAL IMMUNITY | 17 |
| A. Contract Claims | 17 |
| 1. <u>Byrdson Servs., LLC v. S.E. Tex. Reg’l Planning Comm’n</u> , 454 S.W.3d 581 (Tex. App.—Beaumont 2015), <i>pet. granted</i> , 59 Tex. Sup. Ct. J. 940 (May 27, 2016) [15-0158] | 17 |
| 2. <u>Wasson Interests, Ltd. v. City of Jacksonville</u> , 489 S.W.3d 427 (Tex. Apr. 1, 2016) [14-0645] | 17 |
| 3. <u>Wheelabrator Air Pollution Control, Inc. v. City of San Antonio</u> , 489 S.W.3d 448 (Tex. Apr. 15, 2016) [15-0029] | 18 |
| B. Texas Tort Claims Act | 18 |
| 1. <u>City of Dallas v. Sanchez</u> , S.W.3d , 59 Tex. Sup. Ct. J. 1540 (Tex. July 1, 2016) [15-0094] | 18 |
| 1. <u>Laverie v. Wetherbe</u> , 2015 WL 739670 (Tex. App.—Amarillo 2015), <i>pet. granted</i> , 59 Tex. Sup. Ct. J. 1156 (June 17, 2016) [15-0217] | 19 |
| 2. <u>Sampson v. Univ. of Tex. at Austin</u> , S.W.3d , 59 Tex. Sup. Ct. J. 1118 (Tex. June 10, 2016) [14-0745] | 19 |
| 4. <u>Tex. Dep’t of Pub. Safety v. Bonilla</u> , 481 S.W.3d 640 (Tex. Dec. 4, 2015) [14-0694] | 20 |
| C. Ultra Vires Claims | 21 |
| 1. <u>Hous. Belt & Terminal Ry. Co. v. City of Houston</u> , 487 S.W.3d 154 (Tex. Apr. 1, 2016) [14-0459] | 21 |
| 2. <u>Morath v. Sterling City Indep. Sch. Dist.</u> , S.W.3d , 59 Tex. Sup. Ct. J. 1428 (Tex. June 24, 2016) [14-0986] | 21 |
| XIII. INSURANCE | 22 |
| A. Policies/Coverage | 22 |
| 1. <u>J&D Towing, LLC v. Am. Alt. Ins. Corp.</u> , 478 S.W.3d 649 (Tex. Jan. 8, 2016) [14-0574] | 22 |
| 2. <u>Seger v. Yorkshire Ins. Co.</u> , S.W.3d , 59 Tex. Sup. Ct. J. 1208 (Tex. June 17, 2016) [13-0673] | 23 |
| 1. <u>U.S. Metals, Inc. v. Liberty Mut. Grp., Inc.</u> , S.W.3d , 59 Tex. Sup. Ct. J. 144 (Tex. Dec. 4, 2015) [14-0753] | 23 |
| XIV. INTENTIONAL TORTS | 24 |
| A. Assault | 24 |
| 1. <u>B.C. v. Steak N Shake Operations, Inc.</u> , 461 S.W.3d 928 (Tex. App.—Dallas 2015), <i>pet. granted</i> , 59 Tex. Sup. Ct. J. 359 (Feb. 19, 2016) [15-0404] | 24 |
| B. Defamation | 24 |
| 1. <u>Brady v. Klentzman</u> , 456 S.W.3d 239 (Tex. App.—Houston [1st Dist.] 2014), <i>pet. granted</i> , 59 Tex. Sup. Ct. J. 359 (Feb. 19, 2016) [15-0056] | 24 |
| 2. <u>D Magazine Partners, L.P. v. Rosenthal</u> , 475 S.W. 3d 470 (Tex. App.—Dallas 2015), <i>pet. granted</i> , 59 Tex. Sup. Ct. J. 1336 (June 24, 2016) [15-0790] | 25 |

| | |
|--|----|
| XV. JURISDICTION | 25 |
| A. Dominant Jurisdiction | 25 |
| 1. <u>In re J.B. Hunt Transp., Inc., S.W.3d , 59 Tex. Sup. Ct. J. 1031 (Tex. May 27, 2016) [15-0631]</u> | 25 |
| B. Injunctions | 26 |
| 1. <u>Campbell v. Wilder, 487 S.W.3d 146 (Tex. Apr. 1, 2016) [14-0379]</u> | 26 |
| C. Mootness | 26 |
| 1. <u>Matthews v. Kountze Indep. Sch. Dist., 484 S.W.3d 416 (Tex. Jan. 29, 2016) [14-0453]</u> | 26 |
| D. Personal Jurisdiction | 27 |
| 1. <u>Cornerstone Healthcare Grp. Holding, Inc. v. Nautic Mgmt. VI, L.P., S.W.3d , 59 Tex. Sup. Ct. J. 1287 (Tex. June 17, 2016) [14-0538, 14-0539]</u> | 27 |
| 2. <u>M & F Worldwide Corp. v. Pepsi-Cola Metro. Bottling Co., 453 S.W.3d 492 (Tex. App.—Houston 2014), pet. granted, 59 Tex. Sup. Ct. J. 1336 (June 24, 2016) [15-0083]</u> | 27 |
| 3. <u>Searcy v. Parex Res., Inc., S.W.3d , 59 Tex. Sup. Ct. J. 1225 (Tex. June 17, 2016) [14-0293, 14-0295]</u> | 28 |
| 4. <u>TV Azteca v. Ruiz, S.W.3d , 59 Tex. Sup. Ct. J. 391 (Tex. Feb. 26, 2016) [14-0186]</u> | 29 |
| E. Political Questions | 29 |
| 1. <u>City of Ingleside v. City of Corpus Christi, 469 S.W.3d 589 (Tex. July 24, 2015) [14-0548]</u> | 29 |
| F. Standing | 30 |
| 1. <u>Linegar v. DLA Piper LLP (US), S.W.3d , 59 Tex. Sup. Ct. J. 993 (Tex. May 27, 2016) [14-0767]</u> | 30 |
| | |
| XVI. MEDICAL LIABILITY | 30 |
| A. Expert Reports | 30 |
| 1. <u>Hebner v. Reddy, S.W.3d , 59 Tex. Sup. Ct. J. 979 (Tex. May 27, 2016) [14-0593]</u> | 30 |
| B. Health Care Liability Claims | 31 |
| 1. <u>CHRISTUS Health Gulf Coast v. Carswell, S.W.3d , 59 Tex. Sup. Ct. J. 866 (Tex. May 20, 2016) [14-0362]</u> | 31 |
| 2. <u>Galvan v. Mem’l Hermann Hosp. Sys., 476 S.W.3d 429 (Tex. Dec. 4, 2015) [14-0410]</u> | 31 |
| 3. <u>Reddic v. E. Tex. Med. Ctr. Reg’l Health Care Sys., 474 S.W.3d 672 (Tex. Oct. 30, 2015) [14-0333]</u> | 32 |
| C. Partnership Liability | 32 |
| 1. <u>Doctors Hosp. at Renaissance, Ltd. v. Andrade, S.W.3d , 59 Tex. Sup. Ct. J. 1022 (Tex. May 27, 2016) [15-0563]</u> | 32 |
| | |
| XVII. MUNICIPAL LAW | 33 |
| A. Extraterritorial Jurisdiction | 33 |
| 1. <u>Town of Lakewood Village v. Bizios, S.W.3d , 59 Tex. Sup. Ct. J. 1007 (Tex. May 27, 2016) [15-0106]</u> | 33 |
| B. State Law Preemption | 33 |
| 1. <u>BCCA Appeal Grp., Inc. v. City of Houston, S.W.3d , 59 Tex. Sup. Ct. J. 692 (Tex. Apr. 29, 2016) [13-0768]</u> | 33 |

| | |
|---|----|
| XVIII. NEGLIGENCE | 34 |
| A. FELA Claims | 34 |
| 1. <u>Union Pac. R.R. v. Nami</u> , S.W.3d , 59 Tex. Sup. Ct. J. 1407 (Tex. June 24, 2016) [14-0901] | 34 |
| B. Independent Contractors | 35 |
| 1. <u>First Tex. Bank v. Carpenter</u> , 2014 WL 2568494 (Tex. App.—Austin 2014), <i>pet. granted</i> , 59 Tex. Sup. Ct. J. 163 (Dec. 18, 2015) [15-0172] | 35 |
| C. Negligent Entrustment | 35 |
| 1. <u>4Front Engineered Sols., Inc. v. Rosales</u> , 2015 WL 1182462 (Tex. App.—Corpus Christi 2015), <i>pet. granted</i> , 59 Tex. Sup. Ct. J. 1156 (June 17, 2016) [15-0298]..... | 35 |
| D. Premises Liability | 35 |
| 1. <u>Ineos USA, LLC v. Elmgren</u> , S.W.3d , 59 Tex. Sup. Ct. J. 1278 (Tex. June 17, 2016) [14-0507] | 35 |
| 2. <u>Occidental Chem. Corp. v. Jenkins</u> , 478 S.W.3d 640 (Tex. Jan. 8, 2016) [13-0961] | 36 |
| 3. <u>UDR Tex. Props., L.P. v. Petrie</u> , 2014 WL 7174242 (Tex. App.—Houston [14th Dist.] 2014), 59 Tex. Sup. Ct. J. 464 (Apr. 1, 2016) [15-0197] | 37 |
| XIX. OIL AND GAS | 37 |
| A. Assignments | 37 |
| 1. <u>Apache Deepwater, LLC v. McDaniel Partners, Ltd.</u> , 485 S.W.3d 900 (Tex. Feb. 26, 2016) [14-0546] | 37 |
| B. Contract Interpretation | 38 |
| 1. <u>Kachina Pipeline Co., Inc. v. Lillis</u> , 471 S.W.3d 445 (Tex. Oct. 9, 2015) [13-0596] | 38 |
| C. Royalty Payments | 38 |
| 1. <u>Chesapeake Expl., L.L.C. v. Hyder</u> , 483 S.W.3d 870 (Tex. Jan. 29, 2016) [14-0302].. | 38 |
| 2. <u>Crawford v. XTO Energy, Inc.</u> , 455 S.W.3d 245 (Tex. App.—Amarillo 2015), <i>pet. granted</i> , 59 Tex. Sup. Ct. J. 940 (May 27, 2015) [15-0142] | 39 |
| 3. <u>Hysaw v. Dawkins</u> , 483 S.W.3d 1 (Tex. Jan. 29, 2016) [14-0984] | 40 |
| XX. PETS | 40 |
| A. Property Rights | 40 |
| 1. <u>Lira v. Greater Hous. German Shepherd Dog Rescue, Inc.</u> , 488 S.W.3d 300 (Tex. Apr. 1, 2016) [14-0964] | 40 |
| XXI. PROBATE: WILLS, TRUSTS, ESTATES, & GUARDIANSHIPS | 41 |
| A. Will Construction | 41 |
| 1. <u>Stephens v. Beard</u> , 485 S.W.3d 914 (Tex. Mar. 18, 2016) [14-0406, 14-0407]..... | 41 |
| XXII. PROCEDURE—APPELLATE | 41 |
| A. Dismissal | 41 |
| 1. <u>Brown v. Jones</u> , S.W.3d , 59 Tex. Sup. Ct. J. 1543 (Tex. July 1, 2016) [15-0419].. | 41 |
| 2. <u>Ex Parte N.C.</u> , 486 S.W.3d 560 (Tex. Apr. 1, 2016) [15-0184]..... | 42 |
| 3. <u>McLean v. Livingston</u> , 486 S.W.3d 561 (Tex. Apr. 1, 2016) [15-0100] | 42 |
| B. Judgments | 43 |
| 1. <u>Blair v. Atl. Indus., Inc.</u> , 482 S.W.3d 57 (Tex. Jan. 8, 2016) [14-1041] | 43 |

| | |
|--|----|
| C. Written Opinions | 43 |
| 1. <u>Sloan v. Law Office of Oscar C. Gonzalez, Inc., 479 S.W.3d 833 (Tex. Jan. 8, 2016) [14-1015]</u> | 43 |
| XXIII. PROCEDURE—PRETRIAL | 43 |
| A. Discovery | 43 |
| 1. <u>In re CHRISTUS Santa Rosa Health Sys., S.W.3d , 59 Tex. Sup. Ct. J. 998 (Tex. May 27, 2016) [14-1077]</u> | 43 |
| 2. <u>In re H.E.B. Grocery Co., L.P., S.W.3d , 59 Tex. Sup. Ct. J. 1027 (Tex. May 27, 2016) [15-0625]</u> | 44 |
| 3. <u>In re M-I L.L.C., S.W.3d , 59 Tex. Sup. Ct. J. 888 (Tex. May 20, 2016) [14-1045]</u> | 45 |
| B. Dismissal | 45 |
| 1. <u>Levinson Alcoser Assocs., L.P. v. El Pistolón II, Ltd., 2015 WL 601983 (Tex. App.—Corpus Christi 2015), pet. granted, 59 Tex. Sup. Ct. J. 1156 (June 17, 2016) [15-0232]</u> | 45 |
| 2. <u>Pedernal Energy, LLC v. Bruington Eng’g, LLC, 456 S.W.3d 181 (Tex. App.—San Antonio 2014), pet. granted, 59 Tex. Sup. Ct. J. 940 (May 27, 2016) [15-0123]</u> | 46 |
| C. Forum Non Conveniens | 46 |
| 1. <u>In re Oceanografía, S.A. de C.V., S.W.3d , 59 Tex. Sup. Ct. J. 1536 (Tex. July 1, 2016) [14-0963]</u> | 46 |
| D. Forum Selection Clauses | 46 |
| 1. <u>In re Nationwide Ins. Co. of Am., S.W.3d , 59 Tex. Sup. Ct. J. 1483 (Tex. June 24, 2016) [15-0328]</u> | 46 |
| E. Pre-suit Discovery | 47 |
| 1. <u>In re DePinho, S.W.3d , 59 Tex. Sup. Ct. J. 917 (Tex. May 20, 2016) [15-0294]</u> | 47 |
| F. Statute of Limitations | 48 |
| 1. <u>BNSF Ry. Co. v. Phillips, 485 S.W.3d 908 (Tex. Dec. 4, 2015) [14-0530]</u> | 48 |
| XXIV. PROCEDURE—TRIAL AND POST-TRIAL | 48 |
| A. Jury Instructions and Questions | 48 |
| 1. <u>R.R. Comm’n of Tex. v. Gulf Energy Expl. Corp., 482 S.W.3d 559 (Tex. Jan. 29, 2016) [14-0534]</u> | 48 |
| B. New Trial Orders | 49 |
| 1. <u>In re Bent, 487 S.W.3d 170 (Tex. Apr. 1, 2016) [14-1006]</u> | 49 |
| C. Post-Judgment Filing Deadlines | 49 |
| 1. <u>In re J.Z.P., 484 S.W.3d 924 (Tex. Feb. 26, 2016) [14-1072]</u> | 49 |
| XXV. PRODUCTS LIABILITY | 50 |
| A. Indemnity | 50 |
| 1. <u>Centerpoint Builders GP, LLC v. Trussway, Ltd., S.W.3d , 59 Tex. Sup. Ct. J. 1295 (Tex. June 17, 2016) [14-0650]</u> | 50 |
| XXVI. REAL PROPERTY | 50 |
| A. Easement | 50 |
| 1. <u>Staley Family P’ship v. Stiles, 483 S.W.3d 545 (Tex. Jan. 29, 2016) [14-0591]</u> | 50 |
| B. Eminent Domain | 51 |
| 1. <u>Caffe Ribs, Inc. v. State, 487 S.W.3d 137 (Tex. Apr. 1, 2016) [14-0193]</u> | 51 |

| | |
|---|----|
| 1. <u>Denbury Green Pipeline–Tex., LLC v. Tex. Rice Land Partners, Ltd.</u> , 457 S.W.3d 115 (Tex. App.— Beaumont 2015), 59 Tex. Sup. Ct. J. 464 (Apr. 1, 2016) [15-0225] | 51 |
| 3. <u>In re Lazy W Dist. No. 1</u> , S.W.3d , 59 Tex. Sup. Ct. J. 1016 (Tex. May 27, 2016) [15-0117] | 52 |
| C. Landlord Tenant | 53 |
| 1. <u>Phila. Indem. Ins. Co. v. White</u> , S.W.3d , 59 Tex. Sup. Ct. J. 743 (Tex. May 13, 2016) [14-0086] | 53 |
| D. Nuisance | 53 |
| 1. <u>Crosstex N. Tex. Pipeline, L.P. v. Gardiner</u> , S.W.3d , 59 Tex. Sup. Ct. J. 1455 (Tex. June 24, 2016) [15-0049] | 53 |
| XXVII. TAXES | 54 |
| A. Cigarette Tax | 54 |
| 1. <u>Hegar v. Tex. Small Tobacco Coal.</u> , S.W.3d , 59 Tex. Sup. Ct. J. 534 (Tex. Apr. 1, 2016) [14-0747] | 54 |
| B. Franchise Tax | 55 |
| 1. <u>Hallmark Mktg. Co. v. Hegar</u> , 488 S.W.3d 795 (Tex. Apr. 15, 2016) [14-1075] | 55 |
| C. Sales Tax | 55 |
| 1. <u>Sw. Royalties, Inc. v. Hegar</u> , S.W.3d , 59 Tex. Sup. Ct. J. 1316 (Tex. June 17, 2016) [14-0743] | 55 |
| XXVIII. TEXAS CITIZENS PARTICIPATION ACT | 56 |
| A. Actual Malice | 56 |
| 1. <u>Greer v. Abraham</u> , 489 S.W.3d 440 (Tex. Apr. 15, 2016) [14-0669] | 56 |
| B. Attorney’s Fees | 56 |
| 1. <u>Sullivan v. Abraham</u> , 488 S.W.3d 294 (Tex. Apr. 15, 2016) [14-0987] | 56 |
| C. Dismissal Standard | 57 |
| 1. <u>KBMT Operating Co. v. Toledo</u> , S.W.3d , 59 Tex. Sup. Ct. J. 1257 (Tex. June 17, 2016) [14-0456] | 57 |
| XXIX. TEXAS UNIFORM FRAUDULENT TRANSFER ACT | 58 |
| A. Reasonably Equivalent Value | 58 |
| 1. <u>Janvey v. The Golf Channel, Inc.</u> , 487 S.W.3d 560 (Tex. Apr. 1, 2016) [15-0489] | 58 |
| XXX. TIM COLE ACT | 59 |
| A. Child Support Compensation | 59 |
| 1. <u>In re Phillips</u> , S.W.3d , 59 Tex. Sup. Ct. J. 828 (Tex. May 13, 2016) [14-0797] | 59 |
| XXXI. WATER LAW | 59 |
| A. Accommodation Doctrine | 59 |
| 1. <u>Coyote Lake Ranch, LLC v. City of Lubbock</u> , S.W.3d , 59 Tex. Sup. Ct. J. 967 (Tex. May 27, 2016) [14-0572] | 59 |
| XXXII. WORKERS’ COMPENSATION | 60 |
| A. Independent Contractors | 60 |
| 1. <u>TIC Energy & Chem., Inc. v. Martin</u> , S.W.3d , 59 Tex. Sup. Ct. J. 1052 (Tex. June 3, 2016) [15-0143] | 60 |

| | |
|--|----|
| B. Lifetime Income Benefits | 60 |
| 1. <u>Dallas Nat’l Ins. Co. v. De La Cruz</u> , 470 S.W.3d 56 (Tex. Aug. 28, 2015) [13-0712].. | 60 |
| C. Retaliation | 61 |
| 1. <u>Kingsaire, Inc. v. Melendez</u> , 477 S.W.3d 309 (Tex. Dec. 4, 2015) [14-0006]..... | 61 |
| D. Settlement Agreements | 61 |
| 1. <u>Tex. Dep’t of Ins. v. Jones</u> , S.W.3d , 59 Tex. Sup. Ct. J. 1442 (Tex. June 24, 2016) [15-0025] | 61 |

SUPREME COURT OF TEXAS UPDATE

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Justice
Supreme Court of Texas

I. SCOPE OF THIS ARTICLE

This article surveys cases that were decided by the Supreme Court of Texas from August 1, 2015 through July 31, 2016. Petitions granted during that time but not yet decided are also included.

II. ADMINISTRATIVE LAW

A. Exhaustion of Administrative Remedies

1. Clint Indep. Sch. Dist. v. Marquez, 487 S.W.3d 538 (Tex. Apr. 1, 2016) [14-0903].

At issue in this case was whether a group of parents was required to exhaust administrative remedies under the Texas Education Code before filing suit in a trial court seeking declaratory and injunctive relief to cure alleged inequalities in funding among individual schools in the Clint Independent School District.

Parents of students attending schools in Clint ISD filed suit against the school district, claiming it violated the Texas Education Code because it was inequitably funding the schools within the district. They also raised claims of a violation of the equal rights and education provisions of the Texas Constitution. Clint ISD responded by filing a motion to dismiss and a plea to the jurisdiction. The trial court granted Clint ISD's motions, explaining that the Parents failed to exhaust all administrative remedies prior to filing suit. The case was appealed to the court of appeals, which reversed the trial court's ruling. The court of appeals held that the Parents validly raised constitutional claims, which are exempt from the requirement that a party exhaust all administrative remedies prior to filing suit. Clint ISD appealed, arguing that the school district's obligation to fund schools arises from the Texas Education Code instead of the Constitution, thus the Parents failed to raise a valid constitutional claim.

The Court held that the Parents' claims necessarily involved violations of the "school laws of the state" and that the Parents were required to

exhaust their administrative remedies. The Constitution provides that it is the Legislature's duty to provide for an efficient public school system. And through the Education Code, the Legislature, not the Constitution, imposed the legal obligations on the school district that the parents claimed the district failed to meet.

The Court further held that the Parents were not excused from exhausting administrative remedies under any exceptions. Claims for purely constitutional violations do not require exhaustion of administrative remedies, but the Parents' constitutional claims necessarily resulted from alleged violations of the school laws of the state. The constitutional-claims exception did not therefore apply.

Section 7.057(a-1) of the Education Code excepts claims based on law "outside" of the Code. The Court held that this exception did not apply because the Parents' claims were based on provisions in the Education Code. The Court also held that the Parents' request for temporary injunctive relief did not except their claims from the exhaustion requirement because such relief was not appropriate in this case. Lastly, although "pure questions of law" are excepted from the exhaustion requirement, the Parents presented questions of historical fact, questions of law, and mixed questions of law and fact.

Although the Parents requested that the Court remand to the trial court so that they could amend their pleadings to cure the jurisdictional defect, the Court held that the Parents could not replead their claims in such a way as to eliminate their reliance on the school laws of the state. The Parents could also not use remand as a mechanism to plead new claims. The Court therefore dismissed the suit for lack of jurisdiction.

2. McIntyre v. El Paso Indep. Sch. Dist., S.W.3d , 59 Tex. Sup. Ct. J. 1387 (Tex. June 24, 2016) [14-0732].

At issue in this case was whether the Texas Education Code required a homeschooling family to exhaust administrative remedies before suing El Paso Independent School District for violation of certain constitutional rights. The McIntyre family sued the District and its attendance officer after criminal charges were filed against them for truancy and contributing to truancy. They asserted the charges resulted from their refusal to sign the District's homeschool verification form rather than from criminal conduct, and brought suit alleging violations of their state and federal constitutional rights. The district court denied the District's plea to the jurisdiction. The court of appeals, however, reversed, reasoning that the Education Code required the McIntyres to exhaust administrative remedies before suing the District for violations of their rights under the Texas Constitution. It also held that qualified immunity protected the District's attendance officer from the McIntyres' claims. The Supreme Court reversed in part, holding the McIntyres need not exhaust administrative remedies.

The Court held that the Education Code did not require the McIntyres to exhaust administrative remedies before suing the District for violation of their rights under the Texas Constitution. Employment disputes aside, the Code limits administrative appeals to cases where a person is aggrieved by the school laws or a school board's violation of them. Here, the McIntyres were not aggrieved by the school laws; their grievance was with the District's actions. Neither were the McIntyres aggrieved by a violation of the school laws; they alleged the District violated the constitution, not the Education Code. Accordingly, the Court reversed the court of appeals' judgment insofar as it dismissed the McIntyres' claims for failure to exhaust administrative remedies. The Court, however, affirmed the court of appeals' judgment to the extent it dismissed the McIntyres' claims against the District's attendance officer based on qualified immunity. The Court remanded the case to the court of appeals.

Justice Green, joined by Justice Johnson and Justice Brown, dissented. The dissent concluded

that the Education Code required the McIntyres to exhaust administrative remedies. The McIntyres necessarily alleged they were aggrieved by the school laws when they challenged the District's and its attendance officer's investigation and the actions taken pursuant to the school laws. Further, the McIntyres asserted the District and its attendance officer acted outside the scope of their authority, which means that the District violated the school laws. The Education Code requires exhaustion of administrative remedies when a plaintiff's claim requires a determination of a school district's authority in administering the school laws.

B. Public Information Act

1. Paxton v. City of Dallas, 453 S.W.3d 580 (Tex. App.—Austin 2014), *pet. granted*, 59 Tex. Sup. Ct. J. 359 (Feb. 19, 2016) [15-0073], *consolidated with*, Paxton v. City of Dallas, 2015 WL 601974 (Tex. App.—Corpus Christi 2015), *pet. granted*, 59 Tex. Sup. Ct. J. 359 (Feb. 19, 2016) [15-0238].

The primary issue in these consolidated cases is whether attorney-client privilege permits a governmental entity to withhold privileged documents from public disclosure under the Texas Public Information Act (PIA). Subject to certain exceptions for confidential information, the PIA requires that public information be made available to the public upon request. If a governmental entity desires to withhold the requested information from disclosure, it must request an opinion from the Attorney General on the issue no later than 10 business after receiving the request. If the governmental entity fails to timely comply, the requested information is "presumed to be subject to required public disclosure and must be released unless there is a compelling reason to withhold the information."

In two cases, the City of Dallas received information requests that allegedly would require disclosure of information protected by the attorney-client privilege. The City failed to ask the Attorney General for an opinion within 10 business days of receiving the requests. When the City finally requested an Attorney General opinion, the City asserted attorney-client privilege as the "compelling reason" that permits the City to nonetheless withhold the information from public disclosure. The Attorney General disagreed,

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