

# RECOVERY OR DENIAL?

## ATTORNEYS' FEES: 2018

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## When to think about attorney's fees?

- ▶ Early & often
- ▶ Affect settlement value/potential of case
- ▶ Can be substantial
- ▶ Some times to think about **requesting** them:
  - ▶ Pleadings—if not plead, recovery may be barred
  - ▶ Early dismissal practices—different procedures
  - ▶ Expert designation—if not, may be precluded
  - ▶ Summary Judgment—how's your proof?
  - ▶ Trial—who is your witness?





## 2018 Texas Supreme Court Cases

- *Hill v. Shamoun & Norman, LP*
- *Dudley Construction, Inc. v. ACT Pipe & Supply, Inc.* (no to Construction Trust Fund Act)
- *Ft. Worth TA v. Rodriguez* (interpleader)
- *State Farm Lloyds v. Fuentes* (excessive demand)





## Other 2018 Cases

- ▶ *State ex rel Best. v. Harper* (TCPA, immunity)
- ▶ *Conoco Phillips v. Koopman* (Natural Resources Code)

## 2017 Still Must-Read

- ▶ *In re National Lloyds* (opponent discovery, billing records)
- ▶ *In re Davenport* (language in contingency fee agreements scrutinized)

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## Some Ch. 38 issues

- ▶ LLP, LLC— “non-individuals or corporations”
  - ▶ Legislature not changed
  - ▶ Must raise or complaint is waived
- ▶ Presentment
- ▶ Promissory estoppel?



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"Recovery or Denial? The Latest on Attorneys' Fees"