

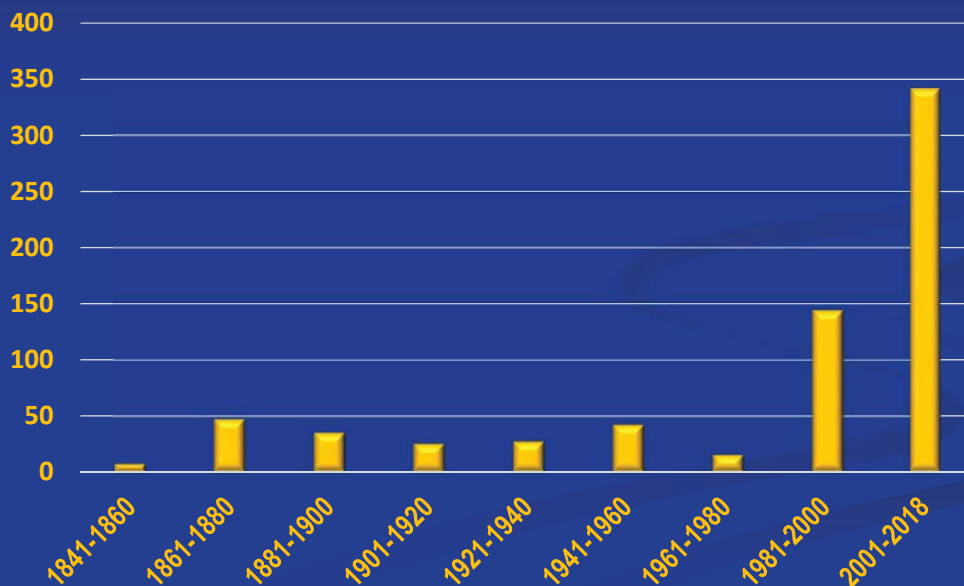


# CONTRACTS THAT DON'T MEAN WHAT THEY SAY

Scott Brister ★ Hunton Andrews Kurth

## “Plain Text”/“Plain Language”

Texas Supreme Court Opinions



## Some laws *don't* mean what they say

---

“No vehicles in the park”

“Seat belt use inadmissible in civil trials”

- can't sue seat belt manufacturers?

*Bridgestone/Firestone v. Glyn-Jones* (Tex. 1994)

Court: legislative intent: “we must look behind the words to the true purpose”

Hecht: “sometimes words, no matter how plain, will not be construed to mean what the Legislature almost certainly could not have intended.”

## Some contracts *don't* mean what they say

---

Especially insurance contracts:

Stumble while exiting pickup is a “motor vehicle accident” *Texas Farm Bureau v. Sturrock* (Tex. 2004)

4,000-foot fences attached to home's slab is part of “dwelling” *Nassar v. Liberty Mut. Ins.* (Tex. 2017)

Injury from gun set off by 9-year-old boy crawling thru truck window to get his coveralls is “use of an underinsured motor vehicle” *Mid-Century Ins. v. Lindsey* (Tex. 1999)

## Some contracts *don't* mean what they say

More likely to occur with form contracts:

- broad impact (oil & gas, insurance)
- upsets only lawyers, not Legislature
- in non-standard contracts, other cases involving other circumstances “are not as compelling.” *RSUI Indem. v. Lynd Co.* (Tex. 2015)

## When contracts *don't* mean what they say

Legal rules that may alter plain meaning:

- Implied Covenants or Terms
- Context
- Custom & Usage

Find the full text of this and thousands of other resources from leading experts in dozens of legal practice areas in the [UT Law CLE eLibrary \(utcle.org/elibrary\)](http://utcle.org/elibrary)

Title search: Contracts That Don't Mean What They Say

Also available as part of the eCourse

[2018 eConference on State and Federal Appeals](#)

First appeared as part of the conference materials for the  
28<sup>th</sup> Annual Conference on State and Federal Appeals session  
"Form Contracts That Don't Mean What They Say"