

Supreme Court of Texas Update

Hon. Jane Bland

2023-2024 Mid-Term

By the Numbers

- 69 arguments set
 - 3 certified questions; 2 direct appeals
 - 137 mandamuses; 95 denied (3 with a PC); 2 granted; 4 set to argue
 - 18 per curiam opinions
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Subject Matter

- 33 Categories
 - Case Summary Paper (divided by decided and pending cases)
 - www.txcourts.gov/supreme/case-summaries
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Civil Trial

- *HNMC, Inc. v. Chan*: When a recognized legal duty applies, a court errs in imposing a case-specific legal duty contrary to the recognized rule. There was no evidence that the adjacent landowner controlled a public roadway such that it could be liable to a pedestrian who was hit by a car in the roadway.
 - *Polk County Publishing Co. v. Coleman*: a newspaper article is not defamatory if the gist of the article is true. A challenged statement is not actionable if the true account would be more damaging to one's reputation than the allegedly false statement.
 - *Uriegas v. Kenmar Residential HCS Services, Inc.*: The plaintiff's expert reports combined to provide a fair summary of the applicable standard of care and breach. That the defendant disagrees with the appropriate standard of care stated in the report is not a reason to reject the expert report at the motion-to-dismiss stage.
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Civil Trial

- *In re Liberty County Mutual Insurance Co.*: In a suit for uninsured motorist coverage that places the existence, causation, and extent of injuries at issue, a defendant is entitled to discover medical records from the plaintiff's primary care physician for a reasonable period. Such records reasonably could lead to admissible evidence.
 - *Jackson v. Takara*: The trial court did not abuse its discretion in permitting a fact witness to testify. Counsel represented to the court without contradiction that the parties had agreed to extend the discovery deadline. The opposing party was aware of the witness, referred to the witness in testimony, and did not show unfair surprise.
 - *Hampton v. Thome*: An imperfect medical authorization form is sufficient to toll the statute of limitations for 75 days for health care liability suits.
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Appellate Jurisdiction

- *Sealy Emergency Room, L.L.C. v. Free Standing Emergency Room Managers of America, L.L.C.*: If an order in a severed cause disposes of all the claims in that action or includes express finality language, then it is a final judgment, even if claims remain pending in the original action.
 - *In re A.B.*: When a court of appeals has overlapping jurisdiction with another court of appeals, a party may seek to consolidate appeals from a single judgment in one court of appeals. Both courts have jurisdiction over the appeal; a challenge to the proper court is an issue of dominant jurisdiction.
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Appellate/ Mandamus Jurisdiction

- *In re A.C.T.M.*: The court of appeals had jurisdiction to reach merits of an appeal where first notice of appeal was premature but effective under TRAP 27.1 and second notice of appeal was filed after the court of appeals remanded the case to obtain a final judgment.
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Rules Update

- Disciplinary Rules Referendum
 - Preliminary Order– Business Court Rules
 - Judicial Administration Task Force (HB 2384)
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Coming attractions

Cases Still to Decide

- *Horton v. Kansas City Railway Company*: The Court has granted rehearing on the question whether submitting multiple factual theories of negligence resulted in presumed harm, requiring a new trial. (Is there *Casteel* error?)
 - *Huynh v. Blanchard*: What is this scope of permissible permanent injunctive relief based on a jury finding of temporary nuisance?
 - *Harley Channelview Properties, LLC v. Harley Marine Gulf, LLC*: Is a partial summary judgment order that requires a party to sell real property within thirty days appealable as a temporary injunction?
 - *Oscar Renda Contracting v. Bruce*: Who has the burden of proof to demonstrate a unanimous verdict for an award for exemplary damages?
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Granted Cases for Next Term

- *Henry S. Miller v. Newsom*: whether a client may assign proceeds and settlement control for a legal malpractice judgment to the client's former adversary.
 - *Pitts v. Rivas*: whether the anti-fracturing rule bars the plaintiffs' fraud and breach of fiduciary duty claims against their former accountants.
 - *In re Jane Doe*: whether the judicial panel for multi-district litigation panel erred by declining to remand a case to the trial court for lack of common questions of fact.
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Summer will be here soon.