



# LAW LIBRARY NEWS

a publication of the Fort Bend County Law Library

August 2021 ♦ Volume 29, Issue 8

## Attorney Lecture Series

The Law Library is hosting another **Attorney Lecture Series** on Friday, **September 17** at **2 pm**. Attorney James Stevens will be speaking about getting **Criminal Appointments in the Courts**. His discussion will include how to get on the appointment list, dealing with the courts, and how to get paid. Registration is required. Visit our website to register. For more information, contact the Law Library.

## In This Issue

Attorney Lecture Series	1
New & Updated Resources	1
FBC Bar News	1
Featured Resource	2
Technology Corner	2
Community News	3
Texas Case Law Update	4
Librarian Musings	5

## New & Updated Resources

### *O'Connor's Texas Series*

- *Texas Family Code Plus*
- *2021 Edition*

### *Accommodating*

#### *Disabilities*

- *2021 Update*

### *Texas Practice Guide*

- *Employment Practice*
- *2021 Edition*

### *Criminal Law Advocacy*

- *2021 Update*

### *Sampson, Tindall, and England's Annotated Family Code*

- *2021 Edition*

### *United States Code Annotated*

- *2021 Update*

### *West's Texas Forms*

- *2021 Update*

### *Texas Practice Series*

- *2021 Update*

## FBC Bar News

### Fort Bend County Bar Association

The Fort Bend County Bar Association is having their monthly meeting and CLE on Thursday, **August 26** at **noon**. The program topic is **"The Life and Times of a New Judge."** It will be presented by Judge Lisa Gonzalez. Register on the FBCBA website.

### Family Bar of Fort Bend County

The Family Bar of Fort Bend will have their monthly luncheon on Thursday, **September 2nd** at **noon**.

### Fort Bend County Criminal Defense Attorneys Association

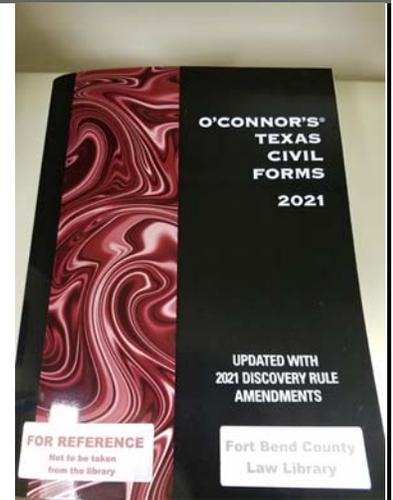
The Fort Bend County Criminal Defense Attorneys Association does not have a CLE this month. Check back in September.



## Featured Resource: O'Connor's Texas Civil Forms, 2021 ed.

**By Jonathan Briggs**

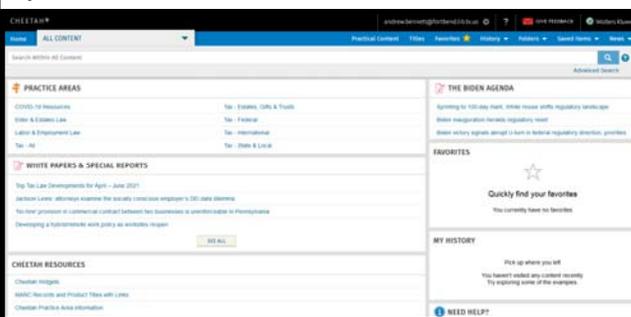
We cannot say enough about the O'Connor's series of practice guides, form books, and code books published by Thomson Reuters. They are a staple of Texas legal practice...you would be hard-pressed to find a law office without at least one O'Connor's book on their shelf. We have 26 of them on our shelves and also via the Westlaw legal database on four of our patron computers...all the Texas and Federal practice related titles. We have recently received the 2021 edition of O'Connor's Texas Civil Forms, one of the oldest books in the O'Connor's series. At over 1,400 pages it has hundreds of essential and basic forms on a wide range of topics (pleadings, discovery, pretrial, disposition without trial, trial, judgment, post-judgment motions, etc.) covering most aspects of general civil litigation, such as: a standard plaintiff's petition, defendant's answer, special appearance, motion for continuance, motion in limine, notice of oral deposition, motion for summary judgment, nonsuits, motion for new trial...to name just a very few. This volume also provides valuable and useful cross-references to related O'Connor's publications: Texas Rules Civil Trials; Texas Civil Appeals; Texas Rules of Evidence Handbook; Texas Causes of Action; and Texas Causes of Action Pleadings (another excellent form book). Of course no legal publication is worth a dime unless it is updated regularly to reflect changes in the law and O'Connor's fulfills this duty both in print and online, such as the recent changes made in this volume in regard to Request for Disclosure under Rule 194, service issues under Rule 106, etc. As mentioned above these and all O'Connor's volumes are also available via the Westlaw legal database on four of our patron computers. From Westlaw these materials can be either downloaded to your thumbdrive or e-mailed to you in Word, Word Perfect, or PDF for free or printed in black and white for 10 cents per page. Copies of the bound books can be also made at 10 cents per page. For more information please contact the Law Library.



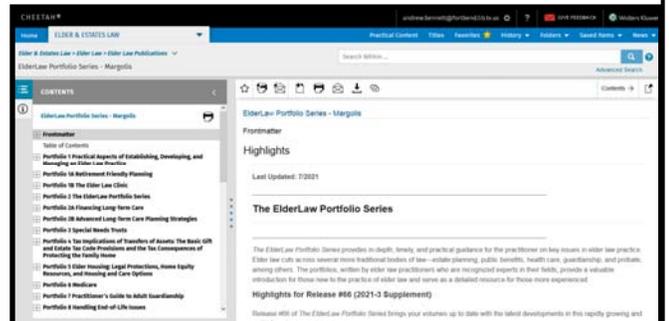
## Technology Corner: Cheetah from Wolters Kluwer



**By Andrew Bennett**



The Law Library will be getting a new database in the Fall. This database from Wolters Kluwer is called Cheetah. While we will not be adding any new resources to this database as of now, we will have access to the items from Wolters Kluwer/CCH publishing that we already have in print. This includes our Tax Law resources such as the *U.S. Master*



*Tax Guide* and *Guidebook to Texas Taxes*, the *Elder Law Portfolio*, and *Accommodating Disabilities*. Once we have everything ready to go, you will find the Cheetah icon on the desktop of our computers. It will automatically authenticate you like Westlaw and Lexis Advance. Once on the main page, you can look at the topics that are included and a general search bar for typing in keywords. As with our other databases, documents download in Word and PDF formats. Printing will be \$0.10 a page. For a demonstration, visit us in the Fall. We will develop an Express Class on this database as well. More information will be provided closer to the date of activation which we hope will be in October.



## Community News

- The **Fort Bend County Law Library** will host an **Lexis Training and CLE** on Wednesday, **September 22nd at 2 pm**. The topic for this class is COVID-19 Rapid Response. For more information and registration, visit our website. CLE credit will be given to those attorneys in attendance.
- The **Texas State Law Library** has a lot of **digital resources** at your disposal. Please **create a digital library account** for access. For more information, visit their website at <https://www.sll.texas.gov/about-us/get-a-library-account/>.
- **Re:search TX** allows you to research case law from all 254 Texas counties. Some documents do require payment to access. Account set up is free. Go to <https://research.txcourts.gov/CourtRecordsSearch/Home>. Or you can check out Google Scholar for case law research at <http://scholar.google.com>.
- **Harris County Law Library** is again closed to the public. They are continuing their virtual programs. To sign up or find more information, visit their website here: <https://www.harriscountylawlibrary.org/>

## Texas Lawyers

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,

## Contact

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](mailto:abennett@fortbend.lib.tx.us) with “Newsletter” as the subject. To unsubscribe, write “unsubscribe.”

## Useful Articles and Links

- **Using Intensifiers: Is it literally a crime?** *Texas Bar Journal*. <https://www.texasbar.com/AM/Template.cfm?Section=articles&Template=/CM/HTMLDisplay.cfm&ContentID=53957>
- **Priorities: Choosing venue in the face of conflicting mandatory venue provisions.** *Texas Bar Journal*. <https://www.texasbar.com/AM/Template.cfm?Section=articles&Template=/CM/HTMLDisplay.cfm&ContentID=53958>
- **Serving Pro Bono Clients in a Pandemic.** *The Houston Lawyer*. <https://www.thehoustonlawyer.com/>
- **COVID-19 and the End of DWI Breath Testing.** *Voice for the Defense*. <https://www.voiceforthedefenseonline.com/covid-19-and-the-end-of-dwi-breath-testing/>



## Texas Case Law Update

### Local Cases

- [In Re Trendmaker Homes, Inc.](#), No. 01-20-00550/00552-CV (July 22, 2021): Pet. Writ Mand. Denied. (400th)
- [In Re Charles Lee Webb, II](#), No. 01-21-00246-CR (July 27, 2021): Pet. Writ Mand. Dism'd. (268th)
- [Diana G. Offord v. April Carson](#), No. 01-19-00815-CV (August 3, 2021): Modify TC Judgment & Aff'd. as Modified. (434th)
- [Hani I. Qutiefan v. Lubna A. Safi](#), No. 01-18-00425-CV (August 5, 2021): Aff'd. TC Judgment. (505th)
- [Troy Lee Bossier, Jr. v. The State of Texas](#), No. 01-19-00911-CR (August 19, 2021): Appeal Dism'd. (CCL#2)
- [Christopher Branch v. Fort Bend County](#), No. 14-19-00477-CV (July 15, 2021): Aff'd. TC Judgment. (434th)
- [Anthony Welch v. JP Morgan Chase Bank, N.A.](#), No. 14-21-00291-CV (July 20, 2021): Appeal Dism'd. (CCL#5)
- [Billy Anyan Wu v. American Express National Bank](#), No. 14-19-00717-CV (July 27, 2021): Aff'd. TC Judgment.(400th)
- [Hamzeh H. Sharan v. The State of Texas](#), No. 14-19-00256-CR (July 29, 2021): Appeal Dism'd. (CCL#4)
- [Jessica Jimenez v. Vanle Properties, LLC](#), No. 14-20-00150-CV (August 5, 2021): Appeal Dism'd. (CCL#4)
- [Arthur X. Garcia v. The State of Texas](#), No. 14-19-00975-CR (August 12, 2021): Aff'd. TC Judgment. (458th)

### Criminal Law—Expunction—DWI

*Ex Parte R.P.G.P.*, 623 S.W.3d 313 (Tex. 2021). Petitioner/Appellant was arrested for DWI and the inventory search of his vehicle found marijuana. He was charged with two misdemeanor offenses: DWI and possession of marijuana. Expunctions are interesting because though they arise from a criminal case they are considered by the civil court system....filed in civil district court and in this instance reached the Supreme Court of Texas (not the Court of Criminal Appeals). Ultimately the Supreme Court held that “under Article 55.01(a)(2)(A), misdemeanor offenses are eligible for expunction on an individual basis. Because the petitioner is entitled to partial expunction of his arrest records, we reverse the court of appeals' contrary judgment.” A lengthy opinion but worth a read for any attorney or pro se dealing with the issue of expunction where there were multiple charges.

### Civil Litigation—Health Care Liability Claim—Report Requirement

*Ramona Rogers, M.D., et al. v. David S. Bagley, Individually and as Representative of the Estate of Jeremiah R. Bagley*, 623 S.W.3d 343 (Tex. 2021). Representative of deceased mental health patient's estate brought a civil rights claim under 42 U.S.C. §1983 against health care personnel and the facility where he had been admitted. Defendants sought dismissal of the claim under the provision of the Texas Medical Liability Act (“TMLA”), CPRC §74.351(a), requiring the filing of an expert report on behalf of the plaintiff in support of the claim. Supreme Court held that this was a health care liability claim under the TMLA and the report requirement was not preempted by this case being brought under federal law. Generally the failure to file such a report within the time required is an error fatal to the plaintiff resulting in dismissal. But, in this instance the Supreme Court held: [W]e have broad authority to remand a case to the trial court when justice so requires. TEX. R. APP. P. 60.3; *see, e.g. Boyles v. Kerr*, 855 S.W.2d 593, 603 (Tex. 1993) (“We have broad discretion to remand for a new trial in the interest of justice where it appears that a party may have proceeded under the wrong legal theory.”). The case for remand is especially compelling in cases where, as here, we have substantially clarified the law.” Reversed and remanded. Another lengthy opinion but well worth reading for those who practice in this area or for pro se plaintiffs bringing a claim that may fall under the TMLA.

### Family Law—Bill of Review

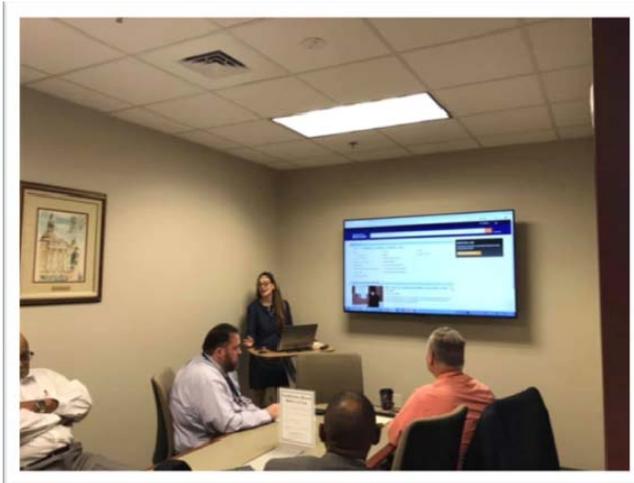
*Ronald Joseph v. Britini J. Jack*, 624 S.W.3d 1 (Tex.App.-Houston [1st Dist.] 2021, no pet. h.). In the Law Library we regularly encounter patrons who are trying to deal with a court's judgment entered against them and they are seemingly past any deadline to try and remedy the situation via such means as a motion for new trial or filing a notice of appeal. This family law case concerns a bill of review, a means by which litigants in this situation can seek redress from the courts. In this case the appellee had sought a protective order against the appellant. Default judgment was entered when the appellant failed to appear at two hearings. Mr. Joseph filed a petition for bill of review and a motion for summary judgment, both of which were denied by the trial court. He did not deny that he had been served, but that service was defective because the officer had failed to sign the return of service pursuant to TRCP 107. The Court of Appeals held that the trial court did not abuse its discretion in denying the bill of review. His due process claims were also denied by the Court of Appeals. Affirmed. This case provides a good overview of the law on default judgment and bill of review.



## Librarian Musings: Hybrid Classes: Why We Need to Be Flexible

*By Andrew Bennett*

One thing this pandemic has taught us is that we are not going to go back to what we were doing before. That is certainly true for the library as a whole and for the classes we teach. Going back to a strict face-to-face model seems pretty unfeasible at this point. While we certainly want people to come back into the library for our programs, there is going to be a lot of people who will see the physical library as a place they will not want to visit. Whether this person is an attorney and their hearings are now mostly virtual or they are a pro se litigant who wants to do things remotely for health reasons. Whichever the case, we are going to have to adapt our programs accordingly.



First question, of course, is how do we do that? Well, I'd imagine that your library is going to continue a subscription to Zoom, WebEx, or something similar. Many of your colleagues might end up still working from home and having one of those services seems like a safe bet. We've been doing programs remotely for about a year now and there doesn't seem to be a sense that we will stop doing that anytime soon. That part is taken care of. So, how do we merge these two types of programs together?

The easiest way would be to just have both running simultaneously. Create a virtual program through whichever service you have and then have a place for those in person patrons to be at the same time. You will need some sort of digital component, i.e. PowerPoint, which I would imagine most of you already are doing. That way the presentation can be in both

places at once. This also begs the question, do we need a camera? Do you want your face to be displayed? This might just come down to personal preference. Is your presentation enough for the virtual attendees? I've always been a proponent that you connect with a virtual audience better by showing yourself. It brings a bit more of a personal touch to what you are doing. I would use a camera. Even just using a camera on a laptop, which can be placed on a podium, is probably sufficient. It displays just your face and the presentation.

The other option, other than a live presentation, would be to just record the live presentation and then have it available either through your website, Facebook, YouTube, or some other means for patrons to be able to view. The downsides to this option are that the virtual patrons will not be able to ask questions live. You also will need to find space for your programs, whether that be on your website or YouTube, etc. The advantage of a live program is you do not need to record it every time. Special programs you would likely want to record as they might have unlimited replay value for your patrons. A program you give once a week or once a month unlikely to have that value. I would recommend picking and choosing which programs to record and provide in this format as you do not want your page cluttered with videos of the same thing. This is why the live format might be the way to go for the more repetitive programs. This way, you could potentially double your audience and eliminate the need to record every time.

*Republished from HALLmarks.*

