



LAW LIBRARY NEWS

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All Library Locations Closed

Due to precautions with COVID-19, the Fort Bend County Library system has closed all locations until further notice. All programs will resume or be rescheduled when we are able. However, the library is still available online through www.fortbend.lib.tx.us. If you have any questions, please feel free to contact us at 281-341-3718 or by email at LLpublic@fortbend.lib.tx.us. We are sorry for the inconvenience.

In This Issue

Libraries Closed	1
New & Updated Resources	1
FBC Bar News	1
Featured Resource	2
Technology Corner	2
Community News	3

New & Updated Resources

Texas Personal Injury Handbook

- 2020 Edition

Corpus Juris Secundum

- Vols. 47A-C (IRS)
- 2020 Update

Texas Litigation Guide

- Release 136
- 2020 Update

Civil Actions Against State and Local Govt.

- 2020 Update

Texas Practice Series

- Vol. 14—*Methods of Practice*
- 2020 Edition

Federal Practice & Procedure

- 2020 PP Update

O'Connor's Texas Series

- *Oil & Gas*
- 2020 Edition

Federal Jury Practice & Instructions

- 2020 Update

Vernon's Texas Codes Annotated

- *Texas Education Code*
- 2020 Update

Criminal Law Handbook

- 2020 Edition

FBC Bar News

Fort Bend County Bar Association

The **March luncheon and meeting** of the **Fort Bend County Bar Association** will be at **noon** on **March 26th** at the Sugar Creek Country Club. This program is entitled "***Understanding the Impact of Trauma and How to Address it in the Legal System.***" The speaker will be Child Advocates of Fort Bend. The program is approved for 1 hour CLE credit and .25 hours ethics credit. The luncheon cost is \$30 for members and \$40 for non-members. Please **RSVP** by Tuesday, **March 24th**.

Family Bar of Fort Bend County

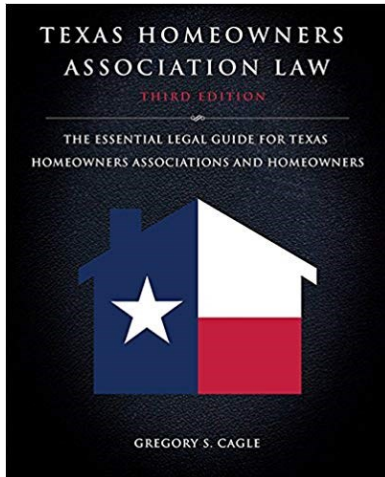
The April meeting and luncheon of the Family Bar of Fort Bend County has been cancelled due to precautions with COVID-19.

The May 7 meeting is still scheduled as planned. Please check the website and your email for updates.



Featured Resource: Texas Homeowners Association Law

By Andrew Bennett



The month of March is Landlord Tenant Law month at the Library and so we are going to focus on a ever broadening area of the topic, Homeowners Association Law. While not specifically “landlord and tenant” it deals with other areas of the Texas Property Code. This guide, in particular, is one of the first guides dealing with it in its entirety. *Texas Homeowners Association Law* is now in its Third Edition and details aspects of the topic including Master-planned communities and condominiums, formation and administration of HOA's, details of meetings of the board and membership meetings, duties of the and operation of HOAs' and homeowners, how they levy, assess, and enforce assessments and covenants, and more. Each section has annotations and citations to both Texas and Federal statutes and regulations as well as any appellate court decisions effecting both HOAs and homeowners. In the appendices, there are sample forms and checklists. The author is Gregory S.

Cagle, an attorney from Austin, who has been representing HOAs and homeowners for more than seventeen years. He is a frequent speaker at various conventions and conferences on this topic. We do not have a digital copy of the book, so all copies can be made for \$0.10 a page. For more information, visit the Law Library.

Technology Corner: Nondisclosure and Expunction Resources

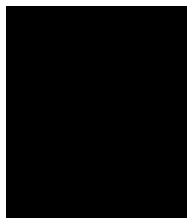
By Jonathan Briggs

While we are not having our Attorney Lecture Series this month, we wanted to highlight the up-to-date online resources available at the Fort Bend County Law Library regarding Expunctions and Orders of Non-Disclosure. Expunction is the process whereby records of criminal charges that were dismissed or quashed are sought to be expunged by order of the Court. Orders of Non-Disclosure are sought to shield from view criminal records related to certain offenses as it hinders the ability to seek employment, housing, etc. The Fort Bend County Law Library can help you find materials online to aid you in the process of seeking an order of Expunction or Non-disclosure. As regards Expunction, one place to start is the Texas Law Help website. It has a page with links to basic fil-in-the-blank forms and information. Lexis Advance, has information and forms on Expunction and Non-Disclosure via practice guides such as the Texas Criminal Lawyer's Handbook and the Texas Criminal Practice Guide. Westlaw also has information and forms concerning Expunction and Non-Disclosure via its resources such as Texas Jurisprudence, Texas Practice Series, and the Texas Practice Guide. Additionally, both Lexis and Westlaw provide full access to on-point statutes and case law. An invaluable source for navigating the Non-Disclosure process is the website of the Texas Judicial Branch. Here you will find links to the Code of Criminal Procedure and forms as well as a detailed overview. We will be glad to assist you in accessing, downloading, printing, or copying these excellent materials. We hope you can attend Ms. Scott's lecture in the future. For more information please contact the Law Library or check our website.



Community News

- The **Fort Bend County Law Library** has its **Pro Se Basics Classes** on **Tuesdays at 10 am**. These classes focus on Procedural Information and Legal Resources for Pro Se's in Court. Contact the Library for dates and classes. Registration is required. Contact the Law Library at 281-341-3718 or online. **CLASSES CANCELLED UNTIL APRIL.**
- The **Fort Bend County Law Library** has its **Express Classes** on **Thursdays at 10 am**. These classes focus on Technology Software you can use in your practice. Contact the Library for dates and classes. Registration is required. Contact the Law Library at 281-341-3718 or online. **CLASSES CANCELLED UNTIL APRIL.**
- The **Fort Bend County Law Library** will have a **Attorney Lecture Series** on **Apr 8 & 22 at 2 pm** here in the Law Library in Conference Room C. This course will focus on **Family Law** and the resources you will need to consult to pursue a divorce, name change, or suit against parent child relationship issue on your own. This class will be given by Sharon Steckler, attorney. Registration is required. **THIS PROGRAM IS STILL SCHEDULED UNTIL FURTHER NOTICE.**
- The **Harris County Law Library** offers the **Legal Tech Institute** where you can learn new technology skills for your practice. Many of these courses offer 1 hour of **FREE CLE Credit**. Please visit their website at <http://www.harriscountylawlibrary.org/legal-tech-institute-events>. **IN-PERSON CLASSES ARE CANCELLED UNTIL APRIL.** Online recorded presentations are still available on their website.



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,

To Include Items

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 with "Newsletter" as the subject.

To Unsubscribe from

If you do not want to receive the Law Library newsletter, please send an email to abennett@fortbend.lib.tx.us with "Unsubscribe" as the subject and include the email address to be removed.



Texas Case Law Update

Local Cases

- ◆ [Terry Fox v. Tara Properties, LLC](#), No. 01-19-00687-CV (February 25, 2020): Appeal Dismissed. (CCL#3)
- ◆ [In Re Expunction](#), No. 01-18-00938-CV (February 27, 2020): Reversed and Rendered. (458th)
- ◆ [Ifeanychukwu Iroh v. U.S. Bank Trust N.A., et al.](#), No. 01-19-00856-CV (March 10, 2020): Appeal Dismissed. (CCL#2)
- ◆ [Derek A. Anthony v. The State of Texas](#), No. 01-19-00941-CR (March 10, 2020): Appeal Dismissed. (268th)
- ◆ [In Re Damon K. Dove](#), No. 14-20-00119-CR (February 25, 2020): Pet. Writ Mand. Denied. (268th)
- ◆ [Debo Homes, LLC v. Laurel Miller, et al.](#), No. 14-18-00546-CV (March 3, 2020): Reversed and Remanded. (400th)
- ◆ [Damon K. Dove v. The State of Texas](#), No. 14-19-00995-CR (March 3, 2020): Appeal Dismissed. (268th)

Criminal Law

The State of Texas v. Craig Doyal, 589 S.W.3d 136 (Tex.Crim.App. 2019, reh'g denied): Defendant was the Montgomery Judge and a member of Commissioners' Court. He was indicted for violating Section 551.143 of the Texas Open Meetings Act (TOMA) for allegedly knowingly violating the law by holding a meeting with less than a quorum and for purposes of secret deliberations. Defendant filed a motion to dismiss based on the First Amendment and that the statute was unconstitutionally vague. The trial court granted the motion. On appeal the State contended that the statute did not violate the Constitutional nor was it vague. The Court of Appeals agreed with the State finding that the law was content neutral and was directed at conduct. Further, the Court of Appeals found that the statute was sufficiently specific as to the conduct prohibited such that it could be understood by ordinary people. On petition for discretionary review the Court of Criminal Appeals found that the statute was unconstitutionally vague on its face and reversed the judgment of the Court of Appeals and affirmed the judgment of the trial court. A lengthy opinion including concurring and dissenting opinions.

Family Law/Termination of Parental Rights/Indigency/Right to Counsel

In the Interest of J.F., II, a Child, 589 S.W.3d 325 (Tex.App.-Amarillo 2019, no pet. h.): Appellant/mother appealed following the trial court's order terminating her parental rights. She had a history of illegal drug use and numerous medical and mental conditions. State had moved for termination and conservatorship when at birth the child tested positive for amphetamines. Appellant sought appointment of counsel based on indigence and the court granted the motion. Subsequently she retained her own family law attorney. That attorney later moved to withdraw claiming Appellant's failure to cooperate. No order entered as to that motion. Mother again requested a court-appointed attorney and sought a continuance. These requests were denied. Trial proceeded with mother being *pro se* and her rights were terminated. She sought a *de novo* hearing by the referring court. Ultimately she was appointed counsel but denied a continuance of the *de novo* hearing to fully prepare. At issue thus was the denial of court-appointed counsel until late in the process. A lengthy opinion but ultimately the Court's finding came down to this: in a termination case there is a heightened standard of review and the Appellant was left without representation at a critical stage of the proceedings. Thus, the Court of Appeals found that the trial court's denial of court-appointed counsel was reversible error. Further, harm-analysis is inapplicable as this type of violation presumes prejudice. Reversed and remanded.

Civil Litigation/Insurance

Oscar Ortiz v. State Farm Lloyds, 589 S.W.3d 127 (Tex. 2019): Plaintiff had submitted a wind and hail damage claim to his homeowner's policy insurer. The initial adjuster found wind/hail damage at an amount less than the policy deductible and found other damage not caused by a covered event. Homeowner sent insurer a substantial damage estimate done by a public adjuster. Re-inspection by the insurance company still found the covered damage to be below the deductible. Plaintiff thus sued State Farm Lloyd's for breach of contract, violation of the Prompt Payment Act, and bad faith. Defendant answered the suit and invoked the appraisal process pursuant to the policy. Plaintiff objected citing waiver of this process by the insurer. State farm sought court-ordered appraisal, which was granted. Following this process Plaintiff was awarded \$9,447.52 as replacement cost of the loss and cash value loss of \$5,243.93. Defendant paid the award then moved for summary judgment arguing that the payment of the appraisal award resolved all claims in the suit. The motion was granted and final judgment was rendered. The Court of Appeals affirmed the trial court. The Supreme Court found that the Court of Appeals correctly affirmed the trial court as to the breach of contract and bad faith claims but that an insurer's payment of an appraisal award does not as a matter of law bar a claim under the Prompt Payment Act. Affirmed in part, reversed in part, and remanded to the trial court for further proceedings.