



## Case Summaries April 25, 2025

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### DECIDED CASES

***City of Killeen–Killeen Police Dep’t v. Terry***, \_\_\_ S.W.3d \_\_\_, 2025 WL \_\_\_ (Tex. Apr. 25, 2025) (per curiam) [[22-0186](#)]

The issue in this case is whether the Texas Tort Claims Act waived the City of Killeen’s governmental immunity in a suit involving a collision with a police cruiser.

Terry sued the City’s police department after a police cruiser responding to a 9-1-1 call struck his vehicle. The City filed a plea to the jurisdiction asserting governmental immunity. The trial court denied the plea, and the court of appeals affirmed.

The Supreme Court held that the court of appeals’ analysis was inconsistent with its recent decision in *City of Austin v. Powell*, 704 S.W.3d 437 (Tex. 2024). Under *Powell*, which addressed the Tort Claims Act’s “emergency exception,” a court must first assess compliance with any applicable laws or ordinances and only then, and if necessary, turn to assessing the officer’s alleged recklessness. Moreover, this suit also implicates the Tort Claims Act’s distinct 9-1-1 exception, which may independently remove the plaintiff’s claims from the Act’s immunity waiver and should be addressed on remand.

Accordingly, the Supreme Court granted the City’s petition for review, vacated the court of appeals’ judgment, and remanded the case to the court of appeals for further proceedings.

***In re Marriage of Benavides***, \_\_\_ S.W.3d \_\_\_, 2025 WL \_\_\_ (Tex. Apr. 25, 2025) [[23-0463](#)]

This case concerns the effect of one spouse’s death on the appeal from a divorce decree.

When Carlos and Leticia Benavides married, they signed pre- and post-marital agreements stating that each spouse’s property would belong solely to that spouse. In 2011, Carlos’s adult children filed for guardianship over Carlos’s person and estate. Soon after, Carlos signed documents that named Leticia as his executor and left his

estate to her. The guardianship court determined that Leticia lacked standing to contest the guardianship and appointed guardians for Carlos.

Carlos's daughter Linda moved Carlos from his marital home onto her property. She was later appointed as Carlos's permanent guardian. Linda then filed for divorce on Carlos's behalf on the ground that he and Leticia had lived apart for three years. The trial court granted the divorce. Leticia appealed, but Carlos died two weeks later. The court of appeals held that Carlos's death mooted the appeal.

The Supreme Court reversed. It held that Carlos's death did not moot the appeal because whether the marriage ended by divorce or by death substantially affects Leticia's property interests under the 2011 Will, which has not yet been determined to be invalid.

The Court also held that to whatever extent the law may allow a guardian to seek a divorce on her ward's behalf, it requires the court to grant the guardian the express authority to file for divorce and to find that the divorce would promote the ward's well-being and protect his best interests. The lower court did not make such a finding in this case and, because Carlos died, cannot do so. The Court therefore vacated the divorce decree and dismissed the case.

Chief Justice Blacklock concurred. While he agreed the Court did not need to reach the issue of whether a guardian can seek a divorce on her ward's behalf, he noted the long-held traditional view that a guardian cannot obtain a divorce on behalf of a ward who cannot express his desire to divorce.

***First Sabrepoint Cap. Mgmt., L.P. v. Farmland Partners Inc.***, \_\_\_ S.W.3d \_\_\_, 2025 WL \_\_\_ (Tex. Apr. 25, 2025) [[23-0634](#)]

This case concerns (1) a trial court's authority to grant a motion to dismiss under the Texas Citizens Participation Act after the motion has been denied by operation of law, and (2) whether the defendants conclusively established that collateral estoppel bars the claims.

Farmland Partners sued Sabrepoint for damages allegedly caused by the publication of an article that was critical of Farmland. Farmland originally sued in Colorado, but that court dismissed for lack of personal jurisdiction. Farmland then sued in Texas. Sabrepoint moved to dismiss the suit under the TCPA. It also moved for summary judgment, arguing that Farmland's claims were precluded because the Colorado court determined that Sabrepoint was not involved with the article's publication. The trial court granted both motions.

The court of appeals held that the TCPA order was void because the trial court did not rule within thirty days of the hearing as required by statute. The court also reversed the summary judgment, concluding that Sabrepoint did not conclusively establish its collateral estoppel defense. Sabrepoint petitioned for review.

The Supreme Court reversed as to the TCPA order but affirmed as to the summary judgment. First, the Court held that the trial court retained plenary power to reconsider the merits of the TCPA motion after it was denied by operation of law. Because the court ruled within the time Sabrepoint could have appealed that denial, any error in granting the TCPA motion after the statutory deadline was harmless.

Second, the Court held that Sabrepoint did not conclusively establish that the Colorado court's findings were identical to facts that would preclude Farmland from prevailing on its claims in Texas, so summary judgment based on collateral estoppel was improper. The Court remanded to the court of appeals to address Sabrepoint's TCPA motion on its merits.

***In re State Farm Mut. Auto. Ins. Co.***, \_\_\_ S.W.3d \_\_\_, 2025 WL \_\_\_ (Tex. Apr. 25, 2025) [[23-0755](#)]

At issue in this original proceeding is whether, in the first part of a bifurcated proceeding to recover underinsured motorist benefits, an insured is entitled to conduct discovery on extracontractual claims and to depose the insurer's corporate representative.

After an automobile accident, Mara Lindsey sought to recover UIM policy benefits and alleged that her insurer State Farm failed to attempt a good-faith settlement of her UIM claim in violation of the Insurance Code. Unlike most first-party insurance policies, UIM policies condition benefits on the legal entitlement to recover from the other motorist under applicable tort law. To avoid prejudice, and consistent with precedent, the trial court bifurcated the proceedings and ordered Lindsey's declaratory-judgment claims on her entitlement to UIM benefits to be tried before her extracontractual claims. State Farm moved to abate the extracontractual claims during the first part of the proceeding and to quash Lindsey's deposition notice of its corporate representative on proportionality grounds. The trial court denied the motions and the court of appeals denied mandamus relief.

The Supreme Court conditionally granted mandamus relief. The Court held that (1) in this distinctive context, an insurer is entitled to have extracontractual claims abated while the insured establishes her entitlement to UIM benefits, and (2) the deposition notice of a corporate representative must be quashed when a UIM insurer with no personal knowledge about the underlying car-crash issues has produced all nonprivileged claim documents and substantiated its proportionality complaints with evidence.

Justice Sullivan concurred, raising concerns about the Court's precedent on what it means for an insured to be "legally entitled to recover" UIM benefits.

***In re E. Tex. Med. Ctr. Athens***, \_\_\_ S.W.3d \_\_\_, 2025 WL \_\_\_ (Tex. Apr. 25, 2025) [[23-1039](#)]

This case concerns whether an employer that opted not to subscribe to the Texas workers' compensation program may designate responsible third parties when its employee sues it for negligence.

East Texas Medical Center Athens employed Sharon Dunn as an emergency-room nurse. Dunn alleges she was injured by an EMT who was not employed by ETMC Athens during one of her shifts. She originally sued the EMT and his employer, but they were dismissed from the case. Dunn then added claims against ETMC Athens, which moved to designate the EMT and his employer as responsible third parties. After the trial court granted the motion, Dunn moved to strike the

designations, arguing that the proportionate-responsibility statute, which prohibits third-party designations in “action[s] to collect workers’ compensation benefits under” the Workers’ Compensation Act, does not apply because her suit is an action to collect “benefits.”

The trial court granted the motion. The court of appeals denied ETMC Athens’s petition for mandamus relief, and ETMC Athens petitioned for mandamus relief in the Supreme Court.

The Court conditionally granted mandamus relief and held that an employee’s negligence suit against her nonsubscribing employer is not one to “collect workers’ compensation benefits” under the Act. Thus, the proportionate responsibility statute applies to such an action. The Court further held that the Act itself does not prohibit responsible third-party designations and that there was sufficient evidence in the record to create a fact issue regarding the third parties’ responsibility in this case. Therefore, the trial court’s striking of ETMC Athens’s designations was an abuse of discretion with no adequate appellate remedy, warranting mandamus relief.

*In re Carlson*, \_\_\_ S.W.3d \_\_\_, 2025 WL \_\_\_ (Tex. Apr. 25, 2025) [[24-0081](#)]

At issue in this case is whether a mandamus petition became moot after the Comptroller issued the final decision the relators had requested.

Tom and Becky Carlson filed an administrative contested case against the Comptroller, alleging a takings claim. The Comptroller referred the case to the State Office of Administrative Hearings. After referral, the administrative law judge granted the Comptroller’s motion to dismiss for lack of jurisdiction, agreeing with the Comptroller that the case was untimely filed. SOAH advised the Carlsons that the Comptroller needed to issue a final order before any further action could be taken in the case. The Comptroller informed the Carlsons that it would issue a final order, but later changed its mind, informing them that SOAH’s order granting the motion to dismiss was a final order. By then, the deadline to file a motion for rehearing—a prerequisite to appeal—had passed.

The Carlsons filed a mandamus petition in the Supreme Court, asking the Court to compel the Comptroller to issue a final order. After briefing and oral argument before the Court, the Comptroller issued a final decision in the underlying case. The parties agreed that the issuance of the final decision rendered the mandamus proceeding moot. The Court agreed and dismissed the mandamus petition for lack of jurisdiction.