



Case Summaries December 5, 2025

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DECIDED CASES

Tabakman v. Tabakman, __ S.W.3d __, 2025 WL __ (Tex. Dec. 5, 2025) (per curiam) [24-0919]

In this default divorce case, the issue is whether the wife is entitled to a new trial under the *Craddock* test.

The husband sued for divorce, and after multiple unsuccessful service attempts, the trial court authorized alternative service. The process server then posted the divorce papers on the door of the wife's temporary abode. But the wife failed to timely answer, and the trial court orally rendered a default judgment. Before the trial court signed the default divorce decree, the wife filed an answer and a motion for a new trial. The trial court nevertheless signed the decree and denied the new-trial motion. The court of appeals affirmed, concluding that the wife did not satisfy the first *Craddock* element to establish that she was not consciously indifferent in failing to answer.

The Supreme Court reversed and remanded the case to the trial court. The Court held that the wife is entitled to a new trial because she satisfied the three *Craddock* elements: (1) she provided a sufficient excuse with supporting evidence that she was not aware that she had been served or that the citation had been posted on the door, (2) she set up a meritorious defense for a reimbursement claim from the community estate, and (3) she established that a new trial would not cause undue delay or injury to the husband.

RECENTLY GRANTED CASES

SaveRGV v. Tex. Gen. Land Off., __ S.W.3d __, 2024 WL 385656 (Tex. App.—Corpus Christi—Edinburg), *pet. granted* (Nov. 21, 2025) [24-0237, 24-0407, 24-0457]

The issue in this case is whether a citizens' group may challenge a statute authorizing the closure of public beaches as unconstitutional.

Since 2019, the Texas General Land Office and Cameron County have exercised their statutory authority to close Boca Chica Beach to allow space flight

activities. SaveRGV filed a declaratory judgment action against the Land Office, its Commissioner, and Cameron County, challenging the constitutionality of the beach-closure statute under Article I, Section 33 of the Texas Constitution. Section 33 provides citizens with the “free and unrestricted right” to use and access public beaches in Texas. The Attorney General intervened on behalf of the State of Texas. The trial court granted the defendants’ pleas to the jurisdiction and dismissed SaveRGV’s case with prejudice.

The court of appeals reversed and remanded, holding that SaveRGV had standing to sue, that it had properly alleged ultra vires conduct by the Commissioner, and that the redundant remedies doctrine did not apply. The court also held that sovereign immunity was waived and SaveRGV’s constitutional challenge was not a “private right of enforcement,” which Article I, Section 33(d) expressly bars.

The governmental defendants petitioned for review. They argue that SaveRGV’s pleadings are facially invalid, and thus sovereign immunity against SaveRGV’s constitutional claims is not waived. The Land Office and County also argue that SaveRGV’s claim is a barred private enforcement attempt. The Supreme Court granted review.

Weldon v. Lilith Fund for Reprod. Equity, ___ S.W.3d ___, 2024 WL 976809 (Tex. App.—Fort Worth 2024), *pet. granted* (Nov. 21, 2025) [24-0250]

The issue in this case is whether a declaratory-judgment suit challenging the constitutionality of a statute is subject to dismissal under the Texas Citizens Participation Act.

Sadie Weldon petitioned for a pre-suit deposition of Neesha Davé, the Lilith Fund’s deputy director, alleging that Davé and the Lilith Fund may have aided or abetted post-heartbeat abortions in violation of the Texas Heartbeat Act. The Lilith Fund then sued Weldon, seeking a declaration that the Heartbeat Act is unconstitutional and an injunction prohibiting Weldon from deposing Davé or suing the Lilith Fund. Weldon moved to dismiss the Lilith Fund’s suit under the TCPA. Weldon’s TCPA motion was denied by operation of law, and Weldon appealed.

The court of appeals affirmed, holding that the TCPA did not apply because the Lilith Fund did not seek to prohibit Weldon from engaging in constitutionally protected activity. Weldon petitioned for review, arguing that the TCPA applies because the Lilith Fund’s suit was based on or in response to Weldon’s petition for a pre-suit deposition. The Supreme Court granted review.

JMI Contractors, LLC v. Medellin, 716 S.W.3d 783 (Tex. App.—San Antonio 2024), *pet. granted* (Nov. 21, 2025) [24-0846]

This appeal challenges a trial court judgment holding a general contractor liable for injuries a subcontractor’s worker sustained in a fall.

Jose Medellin fell from a rooftop while assisting JMI’s subcontractor on a project. Medellin sued JMI for negligence, premises liability, and gross negligence, asserting that JMI negligently supervised the project’s safety parameters and failed

to make the roof safe or warn him about the roof's unreasonably dangerous condition. The jury returned a verdict in favor of Medellin. The court of appeals affirmed.

In the Supreme Court, JMI argues that (1) the evidence is insufficient to support a negligent activity claim; (2) the necessary use exception to the open-and-obvious doctrine does not apply to independent contractors; (3) no evidence supports the gross negligence claim or exemplary damages award; (4) Medellin's counsel presented an incurable and improper closing argument that appealed to the jury's prejudices; and (5) the trial court improperly excluded Medellin's deposition testimony that he consumed alcohol and marijuana the morning of his fall. The Supreme Court granted the petition.

Tex. Dep't of Pub. Safety v. Callaway, __ S.W.3d __, 2024 WL 4511216 (Tex. App.—Corpus Christi—Edinburg), *pet. granted* (Nov. 21, 2025) [24-0966]

The issue in this case is whether Robert Callaway, a former law enforcement officer, sufficiently established his claim for disability discrimination to survive a plea to the jurisdiction.

Robert Callaway worked for the Department of Public Safety. During his tenure, he sought and obtained leave for treatment for alcoholism and post-traumatic stress disorder. While on leave, Callaway went to his child's school to discuss an issue that had arisen involving his child. Callaway brought his badge, firearm, and handcuffs. On arrival, he confronted officers from the school district's police department and threatened to arrest them, pulling out his badge and handcuffs. Following an investigation into the incident, the Department terminated Callaway. Callaway sued the Department for disability discrimination and retaliation. The Department filed a plea to the jurisdiction and hybrid motion for summary judgment.

The trial court denied the Department's motions. The court of appeals affirmed the denial with respect to Callaway's claim of termination discrimination based on his post-traumatic stress disorder, holding that there was a genuine issue of fact as to whether the diagnosis was a motivating factor in his termination. It reversed and rendered a judgment of dismissal for want of jurisdiction on the remainder of his claims.

The Department petitioned for review. The Department argues that the court of appeals erred in failing to apply the appropriate burden-shifting framework in its analysis of the remaining discrimination claim. The Department further advocates for the adoption of the majority federal approach (in the analogous Americans with Disabilities Act context) to the issue of whether disability-caused misconduct is protected. The Supreme Court granted review.

Paxton v. City of Austin, __ S.W.3d __, 2024 WL 4446073 (Tex. App.—15th Dist. 2024), *pet. granted* (Nov. 21, 2025) [24-1078]

At issue in this case is whether proceeding to trial without ruling on a plea to the jurisdiction constitutes an implicit denial that creates appellate jurisdiction.

A group of Austin taxpayers sued the City of Austin and ATP, a local government corporation, challenging their authority to issue bonds to support a light

rail plan that was allegedly changed after voters approved it. The City and ATP sought declarations under the Expedited Declaratory Judgment Act that the bonds were authorized. The Attorney General intervened and filed a plea to the jurisdiction, alleging that the City and ATP were not entitled to bring their declaratory claims under the Act. The trial court did not rule on the plea but instead proceeded to trial.

The Attorney General filed an interlocutory appeal, asserting that the trial court implicitly denied the plea. The court of appeals dismissed the appeal for lack of jurisdiction, concluding there was no implicit denial because the trial court did not rule on the merits of any issue. The Attorney General petitioned the Supreme Court for review, arguing that the trial court could not proceed to trial on the merits before deciding the jurisdictional challenge. The Court granted the petition.