SUPREME COURT OF TEXAS UPDATE
May 2025 through June 2026

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Special thanks to all the Staff Attorneys and
Law Clerks at the Supreme Court of Texas
for their substantial contributions.

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I. SCOPE OF THIS PAPER

This paper surveys cases that the Supreme Court of Texas decided from May 2025 through June 2026. Petitions granted but not yet decided are also included.

The summaries do not constitute the Court's official descriptions or statements. Readers are encouraged to review the Court's official opinions for specifics regarding each case. The Court appreciates suggestions and corrections, which may be sent via email to michael.choyke@txcourts.gov.

II. DECIDED CASES

A. ADMINISTRATIVE LAW

1. Exhaustion of Administrative Remedies

a) *Cockrell Inv. Partners, L.P. v. Middle Pecos Groundwater Conservation Dist.*, 731 S.W.3d 331 (Tex. Mar. 13, 2026) [23-0593, 23-0742]

At issue is whether a landowner that sought party status in administrative proceedings about groundwater-production permits exhausted its administrative remedies before suing the groundwater district.

Cockrell twice sought party status in administrative proceedings challenging permit applications that Cockrell's neighbor, Fort Stockton Holdings, had submitted to the Middle Pecos Groundwater Conservation District. The District refused both party-status requests, and Cockrell sought judicial review each time. The trial court granted the District's plea to the jurisdiction in one case and granted the District's summary-judgment motion in the other. The court of appeals affirmed in both cases, holding that Cockrell had not exhausted its administrative remedies because it sued before allowing 90 days to elapse from the filing of its reconsideration requests with the District.

The Supreme Court reversed. The Court held that Cockrell exhausted its administrative remedies and properly invoked a waiver of the District's immunity. The Court noted that the Water Code required Cockrell to wait a certain amount of time after it requested reconsideration of the decision before suing. But it held that the 90-day rehearing period relied on by the court of appeals applies only to a permit applicant or a party to the administrative proceeding. Cockrell was not a party, so the Court concluded the 90-day period did not apply. The Court determined that Cockrell's reconsideration requests were instead governed by the 45-day period contained in the District's local rules. Cockrell waited more than 45 days before filing each of its suits, so the Court held it exhausted its administrative remedies.

2. Judicial Review

a) *Gonzalez v. Tex. Med. Bd.*, 722 S.W.3d 848 (Tex. Oct. 31, 2025) [24-0340]

This case addresses when declaratory-judgment lawsuits complaining of adverse agency actions are barred by the redundant-remedies doctrine.

Reynaldo Gonzalez, Jr. holds a medical degree and law degree but is only licensed to practice law. In 2020, he ran for the U.S. House of Representatives and referred to himself as "Dr. Gonzalez" and a "physician and attorney." The Texas Medical Board issued

a cease-and-desist order prohibiting Gonzalez from using these titles without designating the authority giving rise to his use of that title.

Gonzalez filed suit in the district court alleging that the Board lacks authority to regulate him, that the statutes in question are facially unconstitutional and unconstitutional as-applied to him, and that the cease-and-desist order is not supported by the evidence. The Board filed a plea to the jurisdiction, arguing that his suit is untimely under the Administrative Procedure Act and that his declaratory-judgment claim is barred by the redundant-remedies doctrine. The trial court granted the Board's plea. The court of appeals reversed in part, holding that Gonzalez's facial constitutional claim is not barred.

The Supreme Court reversed in part and remanded to the trial court. The Court held that the court of appeals should also have remanded Gonzalez's as-applied claims and that the Board acted without lawful authority. The redundant-remedies doctrine only bars claims if they would be wholly redundant of an APA claim. But the APA would only have enabled Gonzalez to challenge the cease-and-desist order. Gonazlez's as-applied and *ultra vires* claims seek relief from future orders of the Board, not just the cease-and-desist order.

The Court affirmed dismissal of Gonzalez's claim that the cease-and-desist order is unsupported by substantial evidence. Gonzalez claims that he did not need to follow the APA's thirty-day deadline because a Board regulation gives him the right to judicial review, and that regulation does not specify a deadline. The Court held that the trial court lacks jurisdiction over that claim because only a statute, and not a regulation, can create a right to judicial review.

3. Jurisdiction

a) *In re Reed*, ___ S.W.3d ___, 2026 WL 1775948 (Tex. June 19, 2026) [25-0149]

The issue in this case is whether the trial court erred in referring a question to a federal agency under the primary jurisdiction doctrine.

Demaree Reed sued his employer, Rail Link, for negligence under the Federal Employers' Liability Act. Rail Link moved for summary judgment, arguing that the Act does not apply because Rail Link is not a "common carrier by railroad" under the Act. Relying on the primary jurisdiction doctrine, the trial court referred the question of Rail Link's common-carrier status to the Surface Transportation Board, a federal agency. Reed sought mandamus relief, which a divided court of appeals denied.

The Supreme Court conditionally granted mandamus relief and directed the trial court to vacate its referral order. In an opinion by Justice Huddle, the Court held that the trial court abused its discretion by referring to an administrative agency the question of Rail Link's common-carrier status under the Act without first confirming that a clear statutory grant of authority permitted the agency to resolve that question. The Court concluded that none of the cited statutes clearly conferred concurrent jurisdiction on the Board to decide the question, so the primary jurisdiction doctrine did not

apply. The Court also held that Reed lacked an adequate remedy by appeal because of the risk of significant waste of economic and judicial resources and the potential harm to the separation of powers.

Justice Young concurred, explaining the origins of the primary jurisdiction doctrine and concluding that, in an appropriate case, the Court should reexamine whether the doctrine should be returned to its original formulation or discarded altogether.

Justice Sullivan concurred, noting reasons to be skeptical of the primary jurisdiction doctrine in general and of its application to federal agencies in particular.

4. Public Information Act

a) *Tex. Comm'n on Env't Quality v. Paxton*, ___ S.W.3d ___, 2026 WL 1041613 (Tex. Apr. 17, 2026) [23-0244]

At issue in this case is whether TCEQ timely asked the Attorney General if it could withhold contested documents under the Public Information Act.

TCEQ received a request from Sierra Club under the Public Information Act. According to TCEQ, many of the requested documents were protected against disclosure. So, in a letter to the Office of the Attorney General, TCEQ asked whether it could withhold the documents. Under the Act, that letter was due no later than ten days after Sierra Club's request, but OAG said it received the letter too late. TCEQ then sued OAG under the Act, seeking a declaratory judgment to allow it to withhold the documents. Sierra Club intervened. The trial court granted summary judgment for Sierra Club, ordering TCEQ to produce the documents. The court of appeals affirmed.

The Supreme Court reversed and remanded for further proceedings, holding that TCEQ did not miss its deadline. The Court held that TCEQ's follow-up email to Sierra Club reset its ten-day clock under the Act because TCEQ attempted to narrow the universe of documents at issue. The Court also found that TCEQ established with sufficient evidence that its request was deposited in interagency mail in a timely fashion.

Justice Busby filed a dissenting opinion. He would have held that TCEQ's email to Sierra Club did not discuss how the disclosure might be narrowed or clarified and, therefore, did not restart the clock under the Act.

B. ARBITRATION

1. Enforcement of Arbitration Agreement

a) *Cerna v. Pearland Urban Air, LLC*, 714 S.W.3d 585 (Tex. May 23, 2025) [24-0273]

At issue in this case is whether a challenge to an arbitration agreement's applicability is one for an arbitrator or a court to decide when the agreement itself delegates questions about its scope to the arbitrator.

Abigail Cerna signed a release containing an arbitration provision upon entering Urban Air Trampoline Park for herself and on behalf of her child. The agreement did not expressly state its duration. They returned to Urban Air for a second visit about three months later and did not sign another release. Her child was injured during the second visit, and Cerna sued Urban

Air for negligence. Urban Air moved to compel arbitration under the release she signed during the first visit. Cerna challenged the applicability of the agreement to the second visit and requested that the trial court determine the issue. The trial court denied the motion to compel. The court of appeals reversed, holding that whether the release applied to Cerna's second visit was a challenge to the release's scope that Cerna had agreed an arbitrator would decide.

The Supreme Court affirmed. While courts must decide challenges contesting the existence of arbitration agreements, a challenge that disputes an agreement's existence as to a particular claim is a challenge to the scope of the agreement, not its existence. Cerna's challenge—which conceded the existence of an agreement for her first visit but not the second—was one contesting the scope of the release to a particular claim. Because the release clearly and unmistakably delegated such questions to the arbitrator, the Court held that the arbitrator must decide Cerna's challenge to the agreement's duration.

2. Judicial Review

a) *Burke v. Hou. PT BAC Off. L.P.*, 726 S.W.3d 828 (Tex. Dec. 19, 2025) (per curiam) [24-0135]

At issue in this case is whether certain communications between a party and a potential party appraiser must be disclosed if the potential appraiser later becomes the designated neutral appraiser.

The lease between landlord Burke and tenant BAC included a provision to adjust rent based on the value of the property. The lease provided that if the parties could not agree on the value, the parties would each appoint an appraiser, who would in turn select a third, neutral appraiser, to value the property. BAC interviewed Scott Rando to be its party appraiser and discussed aspects of the property to be valued. Rando told BAC that he was willing to serve, characterizing Burke's appraiser as "the other side," but BAC ultimately did not hire Rando. Nonetheless, BAC told Rando he would be at the top of its list to be the neutral and Rando in fact became the neutral appraiser. When Burke discovered the communications, it protested the appraisal award. The trial court enforced the award, and the court of appeals affirmed, holding that the communications between BAC and Rando were nonsubstantive.

The Supreme Court reversed, applying arbitration principles at the parties' behest. The Court held that communications between a party and the neutral appraiser about the matter submitted to appraisal must be disclosed if they go beyond the appraiser's availability and experience.

C. ATTORNEYS

1. Barratry

a) *Pohl v. Cheatham*, 718 S.W.3d 173 (Tex. May 9, 2025) [23-0045]

This case concerns the extraterritorial reach of Texas's civil barratry statute.

Texas attorneys were hired by clients in Louisiana and Arkansas to represent them in two separate out-of-state lawsuits. The clients later sued

the attorneys and sought to void their legal-services contracts, alleging those contracts were procured by conduct violating Texas's penal statute and disciplinary rule prohibiting barratry. The clients also alleged the attorneys breached their fiduciary duties. The attorneys moved for summary judgment, arguing that the barratry statute did not apply to conduct that occurred outside Texas. The trial court granted summary judgment and dismissed the clients' claims, but the court of appeals reversed.

The Supreme Court reversed as to the statutory claims. Relying on Texas's strong presumption against extraterritorial application of its statutes, the Court first concluded that nothing in the text of the barratry statute indicates the Legislature's clear intent for it to apply to conduct occurring outside Texas. The Court then held that applying the statute in this case would impermissibly give it extraterritorial effect. The Court observed that the statute's focus, as expressed in its text, is to protect clients against unlawful solicitation. Because the conduct relevant to that focus—the in-person acts of solicitation that procured the legal-services contracts—occurred outside Texas, the Court concluded that the clients' civil barratry claims would require the statute to be applied extraterritorially and therefore were properly dismissed by the trial court. But the Court agreed with the court of appeals that summary judgment should not have been granted on the clients' claims for breach of fiduciary duty.

Justice Busby dissented, reading the statute's text as expressing the Legislature's focus to be on all conduct that violates the penal statute or disciplinary rule prohibiting barratry. Because that includes conduct by these attorneys that occurred in Texas, he concluded that this case involves a permissible domestic application of the statute.

2. Civil Liability

a) *Carden v. Minton, Bassett, Flores & Carsey, P.C.*, ___ S.W.3d ___, 2026 WL 1851869 (Tex. June 26, 2026) [24-0834]

This case raises issues about attorney liability for civil wrongs committed during the representation of a criminal defendant.

William McGee was convicted and sentenced to 42 years in prison for violent crimes. Nearly six years later, McGee and his mother sued his criminal-defense counsel for legal malpractice, breach of fiduciary duty, breach of contract, fraud, and gross negligence. The lawyers' Rule 91a dismissal motion asserted that (1) Mother lacked standing to sue under any theory; (2) the *Peeler* public-policy bar precluded all legal-malpractice claims because McGee had not been exonerated of his crimes; (3) the remaining claims were improperly fractured malpractice claims; (4) regardless of fracturing, *Peeler*'s causation standard barred all claims; and (5) all claims were untimely. The trial court granted the motion and dismissed the suit with prejudice.

The court of appeals affirmed, holding that Mother lacked standing to sue her son's attorney and *Peeler*, which precludes an unexonerated

defendant from suing criminal-defense counsel, barred all of McGee's claims, including those alleging inflated fees, failure to account, and failure to return funds.

The Supreme Court affirmed in part and reversed in part. The Court held that Mother was not a client and, therefore, lacked standing to pursue claims premised on an attorney–client relationship. But the Court concluded she could sue for fraud and breach of contract based on allegations that counsel solicited funds for specific services that were not provided as this was a classic "pocketbook" injury. As to McGee, the Court held that *Peeler* barred legal-malpractice claims, repackaged malpractice claims, and claims for injuries "flowing from the conviction." But the Court concluded that *Peeler* did not necessarily preclude billing or fee-dispute claims independent from the conviction. After identifying the plaintiffs' potentially viable claims, the Court remanded to the court of appeals to consider the fracturing and limitations issues.

Justice Young filed a concurring opinion highlighting concerns about the lawsuit's timeliness.

Chief Justice Blacklock filed a partial dissent, asserting that McGee had no billing or fee-dispute claims that could survive *Peeler* because he did not pay for counsel's services.

3. Disciplinary Proceedings

a) *Lane v. Comm'n for Law. Discipline*, 715 S.W.3d 349 (Tex. June 6, 2025) [23-0956]

The case concerns the application of the limitations period in the Rules of Disciplinary Procedure to a reciprocal discipline proceeding.

Attorney Nejla Lane was suspended by the Northern District of Illinois in 2020 and then by the Illinois Supreme Court in 2023. Following her 2023 suspension, the Commission for Lawyer Discipline sought an identical suspension in Texas. The Board of Disciplinary Appeals imposed a judgment of suspension, and Lane appealed to the Supreme Court.

The Court reversed and dismissed the disciplinary proceeding. The Court rejected the CLD's argument that the limitations rule did not apply to reciprocal-discipline proceedings. The Court also disagreed with BODA's conclusion that the rule's application was waived because Lane failed to plead it. Analyzing the rule's text, the Court held that the disciplinary proceeding was time-barred because Lane's "Professional Misconduct" occurred in 2017, more than four years before the CLD received the "Grievance" upon which it acted.

Justice Boyd and Justice Busby filed dissenting opinions. Justice Boyd argued that the limitations rule does not apply to reciprocal-discipline cases because it is not listed as a defense on which an attorney can rely "to avoid the imposition" of reciprocal discipline and if that list of defenses were not exclusive, Lane waived the limitations defense by failing to plead it. Justice Busby would have held that "Professional Misconduct" for purposes of reciprocal discipline occurs when the attorney has been disciplined in another jurisdiction, so the reciprocal-discipline proceeding here was timely.

b) *Ruth v. Comm'n for Law. Discipline*, ___ S.W.3d ___, 2026 WL 1699920 (Tex. June 12, 2026) [24-0613]

At issue in this case is whether a pro se attorney is subject to Rule 4.02(a) of the Texas Disciplinary Rules of Professional Conduct—the "no contact" disciplinary rule barring an attorney, "in representing a client," from communicating directly with parties who are represented by counsel about the subject of the representation absent that counsel's consent.

Attorney William Ruth represented himself in an attorney disciplinary proceeding. During that proceeding, Ruth directly communicated with opposing parties represented by counsel—individual members of the Commission for Lawyer Discipline—by adding them to the service list for his electronic filings and by writing a letter to the Commission chair. The Commission's counsel informed Ruth of her belief that these communications were improper and asked him to stop contacting individual commissioners.

The communications did not cease, and the Commission initiated a second disciplinary proceeding against Ruth premised on those communications. The trial court found that Ruth violated the no-contact rule and rendered judgment actively suspending him from the practice of law for five years. The court of appeals affirmed.

In an opinion by Justice Lehrmann, the Supreme Court reversed and dismissed the proceeding, agreeing with a prior opinion from the Texas Committee on Professional Ethics and holding that the no-contact rule does not apply to a pro se lawyer given the rule's prefatory "in representing a client" language. The Court noted that the comments to the rule point in different directions—with one comment explaining that the rule's purpose is to safeguard the lawyer–client relationship between other persons and their respective counsel, and another confirming that the communication bar does not extend to communications between clients and other represented parties. The Court saw no legitimate basis to apply the rule to a pro se lawyer given that it clearly does not apply to a lawyer represented by third-party counsel. Finally, the Court concluded that the rule of lenity required a greater degree of clarity in the no-contact rule to subject a pro se lawyer to discipline for violating it.

Justice Huddle filed an opinion concurring in the judgment. She would have held that the no-contact rule applies to pro se lawyers but agreed that the judgment against Ruth should be reversed because he could have justifiably relied on the ethics opinion.

4. Disqualification

a) *In re S.H.*, ___ S.W.3d ___, 2026 WL 1614377 (Tex. June 5, 2026) (per curiam) [26-0030]

At issue in this case is whether the trial court abused its discretion by removing S.H.'s chosen counsel sua sponte.

S.H. faced parallel criminal and parental-termination proceedings in Harris County. The Harris County Public Defender's Office served as her court-appointed counsel in the criminal proceedings but also offered to represent her in the civil parental-

termination proceedings. The trial court had also appointed an attorney ad litem to represent S.H. in those proceedings. S.H. filed a motion to substitute counsel. The trial court denied that motion and issued an order removing the public defender as S.H.'s counsel. The court reasoned that the representation violated the statute governing public defender's offices and constituted an improper usurpation of the judicial power to determine a party's indigence and appoint counsel. S.H. filed a mandamus petition in the court of appeals, which was denied.

The Supreme Court held that Article 26.044 of the Texas Code of Criminal Procedure did not prohibit the public defender's office from providing representation to S.H. in her parental-termination proceedings. The Court also held that because the public defender was not acting as court-appointed counsel but as S.H.'s chosen counsel, the trial court lacked authority to remove the public defender because S.H. is entitled to the counsel of her choice. The Court therefore conditionally granted mandamus relief, instructing the trial court to vacate its removal order and reinstate the public defender as S.H.'s counsel.

b) *In re Zaidi*, 732 S.W.3d 525 (Tex. Apr. 10, 2026) [24-0245]

This mandamus proceeding challenged an order disqualifying defense counsel because his legal assistant previously worked on the same case for the opposing party's former counsel.

The legal assistant had worked for plaintiffs' counsel for several years before moving to another firm that was not representing any party at that time. Five years later, an attorney representing the defendants joined the firm, and the legal assistant was assigned a few case-related tasks. The plaintiffs and their counsel became aware of the legal assistant's work on the case after receiving two e-filing notifications bearing her name. After conducting a brief investigation, the plaintiffs filed a motion to disqualify defense counsel. The trial court granted the motion, and the court of appeals summarily denied mandamus relief.

The Supreme Court denied the defendants' mandamus petition, which contested the disqualification order on both substantive and procedural grounds. First, the Court held that disqualification was required because defense counsel did not instruct the legal assistant to abstain from working on any matter from a previous employment, a minimal safeguard required when a nonlawyer "switches sides" in a case. Even though the legal assistant did not switch sides when she was hired, the Court explained that a proper admonishment was nonetheless required at some point before she commenced work on the same case. Second, the Court rejected the defendants' argument that the disqualification motion was untimely. Although the plaintiffs filed the motion almost a year after receiving the e-filing notifications naming the legal assistant, the Court concluded that fact did not conclusively overcome the plaintiffs' testimony that they were unaware of the issue until shortly before filing the motion.

5. Fees

a) *Webb Consol. Indep. Sch. Dist. v. Marshall*, ___ S.W.3d ___, 2026 WL 1108676 (Tex. Apr. 24, 2026) [24-0339]

The issues in this case are whether school board members Amy and Robert Marshall prevailed for purposes of attorney's fees and whether they were required to exhaust their administrative remedies before bringing suit.

The Marshalls requested documents from Webb Consolidated Independent School District under the Texas Education Code, which grants school board members an "inherent right" to access district information. The Marshalls then filed suit against the District alleging that it had withheld the requested information and seeking injunctive relief. In September 2020, the trial court issued a temporary injunction ordering the District to produce certain documents. By November 2022, the Marshalls were no longer school board members. The District filed a plea to the jurisdiction and a traditional and no-evidence motion for summary judgment, which the trial court denied. The court of appeals affirmed.

The Supreme Court affirmed and remanded for a determination of the Marshalls' reasonable and recoverable attorney's fees. In an opinion by Justice Lehrmann, the Court held that, although generally a party does not prevail by obtaining a temporary injunction, the Marshalls prevailed because the injunction here effectively granted the Marshalls the final relief authorized under the Education Code. The Court explained that the injunction ordered the District to turn over documents, so it was effectively dispositive as to those documents. Thus, the Court concluded, the Marshalls prevailed on their claims relating to those documents before leaving the school board and could accordingly seek attorney's fees under the statute. The Court also held that the statute creates an exception to the general administrative exhaustion requirement.

Justice Hawkins filed a concurring opinion, emphasizing the general principle that a party does not prevail merely by obtaining a temporary injunction.

D. CONSTITUTIONAL LAW

1. Due Process

a) *Thompson v. Landry*, 713 S.W.3d 372 (Tex. May 9, 2025) [23-0875]

The issue in this case is whether a sale of real property to foreclose outstanding tax liens can be set aside on due process grounds if the original owner had notice of the sale before the Tax Code's limitations period ended.

Landry inherited her grandmother's interest in a twelve-acre property. To collect delinquent taxes on the property, the taxing authorities served the record owners by posting notice on the courthouse door. The authorities later obtained a default judgment for the outstanding taxes. Thompson purchased the property at a tax foreclosure sale and satisfied the default judgment. Landry lived on the property before and after the sale, and her husband paid rent to Thompson until Thompson asked the Landrys to vacate. Ten years after the sale of the property, Landry sued to void the default judgment and

to quiet title, alleging that citation by posting in the suit for unpaid taxes violated her constitutional right to procedural due process.

The trial court granted Landry's summary judgment motion, declared the default judgment void, and denied Thompson's summary judgment motions based on limitations and equitable defenses. The court of appeals reversed, holding that fact issues existed as to whether Landry's due process rights were violated. It further held that Thompson did not establish her defenses as a matter of law.

The Supreme Court affirmed and remanded the case to the trial court for further proceedings. It held that notice during the limitations period that the property has been sold defeats an action against a subsequent purchaser to recover the property brought outside the limitations period. In such cases, an aggrieved owner had notice of the harm resulting from any constitutional violation and an adequate legal remedy. An equitable defense is also available to a subsequent purchaser when the former owner had notice of the purchaser's claim to the property outside the limitations period but delayed in seeking relief to the detriment of the purchaser.

2. Gift Clauses

a) *JPMorgan Chase Bank, N.A. v. City of Corsicana*, ___ S.W.3d ___, 2026 WL 1261549 (Tex. May 8, 2026) [24-0102]

The Court addressed whether agreements pledging sales-tax revenue to a private retailer's landlord are permitted under the Constitution's Gift Clauses.

The City of Corsicana and Navarro County wanted a private outdoor retailer, Gander Mountain, to build an anchor store at a shopping center in Corsicana. Under several agreements, the landowner (a nonprofit corporation) obtained a construction loan, some of the sales-tax revenue generated by the center was diverted to the landowner, and Gander Mountain's base rent was pegged to quarterly loan payments minus the sales-tax grants. In 2015, the Gander Mountain store closed, although the shopping center continued to operate. The City and County sued the landowner and Gander Mountain, seeking a declaratory judgment that the agreements were unenforceable under the Gift Clauses. Lender JP Morgan Chase intervened. The trial court granted summary judgment declaring the agreements unconstitutional. The court of appeals affirmed, holding that the public purpose of the agreements was extinguished when the store closed and the agreements lacked adequate controls to ensure the public purpose was accomplished.

The Supreme Court reversed and remanded the case to the trial court for further proceedings. The Court discussed article III, section 52-a of the Constitution, which authorizes "loans and grants of public money" made "for the public purposes of development and diversification of the economy." The Court held the agreements must meet Gift Clause requirements, established by precedent, that (1) the expenditure is not gratuitous but instead brings a public benefit; (2) the predominant objective is to accomplish a legitimate public purpose, not to

provide a benefit to a private party; and (3) the government retains control over the funds to ensure that the public purpose is in fact accomplished. The Court observed that Section 52-a was adopted primarily to establish that development and diversification of the economy would qualify as a legitimate public purpose under existing precedent. The Court concluded that section 52-a and general Gift Clause requirements were likely met, despite the eventual closure of the Gander Mountain store, meaning that summary judgment for the City and County was improper.

3. Home Equity Loans

a) *Staub v. BBVA USA*, ___ S.W.3d ___, 2026 WL 1500941 (Tex. May 29, 2026) [24-1057]

The issue in this case is whether a home equity lender forfeits the entire loan amount for overcharging interest under the forfeiture provision found in the Texas Constitution.

In 2018, Parker Young opened a home equity line of credit with BBVA USA secured by his homestead. In 2020, Young discovered that BBVA had erroneously charged a higher interest rate than agreed for the previous two years and notified BBVA of its error. BBVA failed to cure its breach within sixty days of Young's notice. Young sued BBVA for breach of contract, seeking forfeiture of the principal of the loan amount under Article XVI, Section 50(a) or, alternatively, contract damages. BBVA and Young filed cross motions for summary judgment on the availability of the forfeiture remedy and then resolved the contract damages.

The trial court ruled that Young is not entitled to constitutional forfeiture. The court of appeals affirmed, holding that the forfeiture remedy is limited to breaches of those obligations listed within Section 50(a), not all obligations arising from loan agreements.

The Supreme Court affirmed. The Court held that the forfeiture remedy applies to constitutional breaches only. Read in context, the "obligations" described in Section 50(a) refers to a lender's constitutional obligations. The court concluded that both the history surrounding the adoption of the home equity amendment and precedent interpreting Section 50 are consistent with this textual reading—the forfeiture remedy corresponds to the Constitution's required terms.

4. Religion Clauses

a) *Perez v. City of San Antonio*, 715 S.W.3d 709 (Tex. June 13, 2025) [24-0714]

This certified question concerns the applicability and scope of Article I, Section 6-a of the Texas Constitution.

Gary Perez is a member of the Lipan-Apache Native American Church. The Church worships at a particular area in a public park in San Antonio. In 2023, the City blocked access to the sacred area to make improvements and announced its intention to remove a large number of trees, which Church members state are integral to their religious practice.

Perez sued the City in federal court, alleging, among other claims, violations of Article I, Section 6-a of the Texas Constitution, which forbids the state from "prohibit[ing] or limit[ing] religious services." The district court

declined to grant a temporary restraining order. Perez appealed, and the Fifth Circuit certified the following question:

> Does the "Religious Service Protections" provision of the Constitution of the State of Texas—as expressed in Article 1, Section 6-a—impose a categorical bar on any limitation of any religious service, regardless of the sort of limitation and the government's interest in that limitation?

The Supreme Court answered that the Clause's force is categorical when it applies but its scope is limited and does not reach the type of governmental actions about which Perez complained. As to force, the Court determined that the Clause does not import a strict-scrutiny test. That it was enacted in response to COVID-19 lockdown orders confirms the understanding that the Clause provides greater protection for religious services than the Free Exercise Clause of the First Amendment or the Texas Religious Freedom Restoration Act.

As to the scope of the Clause, the Court declined to comprehensively define the boundaries of the Clause. It rejected proposed definitions from the parties and amici and stated only that the scope did not reach governmental actions taken to preserve and maintain public property for the safety and enjoyment of the public. The Clause generally forbids the government from prohibiting people from gathering for a religious service, restricting the number or relationships of people who can gather for a religious service, or regulating the activities in which people may engage when they gather. The City's decisions were not of that character and were thus not prohibited.

Justice Sullivan dissented. He would have declined to answer the certified question, as any answer in this case would be advisory.

5. Separation of Powers

a) *Elliott v. City of College Station*, 717 S.W.3d 888 (Tex. May 9, 2025) [23-0767]

This case presents several justiciability issues, including the political-question doctrine and mootness.

Shana Elliott and Lawrence Kalke live in the City of College Station's extraterritorial jurisdiction. They have no vote in City elections, but their properties are subject to regulation under certain City ordinances. Elliott and Kalke sued for a declaration that local regulation without a right to vote in local elections violates the Texas Constitution's "republican form of government" clause. The City's plea to the jurisdiction asserted that the constitutional claims were nonjusticiable for several reasons, including under the political-question doctrine. The trial court granted the City's plea and dismissed the suit with prejudice. While the appeal was pending, the legislature adopted a process for ETJ residents to unilaterally opt out of a municipality's ETJ. That law became effective the day after the court of appeals issued its opinion affirming the dismissal judgment. On petition for review, the parties disputed whether the new law mooted the plaintiffs' constitutional claims.

Citing the constitutional-avoidance doctrine, the Supreme Court vacated the lower-court judgments and

the court of appeals' opinion. The Court explained that, whether or not mere enactment of the opt-out process mooted the constitutional claims altogether, the law now provides nonjudicial recourse that offers prompt and complete relief for the plaintiffs' alleged injuries. The amended ETJ statute so significantly altered the legal regime that judicial exposition on sweeping questions of constitutional law would be both unnecessary and imprudent at this time. The Court remanded to the trial court with instructions to abate the suit to allow the plaintiffs a reasonable opportunity to complete the opt-out process, a matter of mere paperwork.

Dissenting in part, Justice Sullivan would have permitted the plaintiffs to continue litigating their republican-form-of-government claims on remand.

b) *In re Abbott*, ___ S.W.3d ___, 2026 WL 1354754 (Tex. May 15, 2026) [25-0674, 25-0687]

The issue in this case is whether the Supreme Court, in original quo warranto actions brought by the Governor and the Attorney General, can remove members of the House of Representatives for deliberately preventing a quorum.

During a special session, several dozen members of the House left the State to prevent a quorum needed to vote on redistricting legislation. The Governor, and later the Attorney General, brought quo warranto actions in the Supreme Court seeking removal of the House members from office. The House members voluntarily returned while the actions were pending, and the redistricting legislation became law.

The Court declined to exercise its discretionary jurisdiction over the petitions and denied them. The Court explained that these cases present fundamental questions about the allocation of powers among the branches of Texas government. The Court noted that the framers of the Texas Constitution entrusted the power to compel legislative attendance to the present members of each chamber and, here, a quorum was restored in two weeks' time without judicial intervention. The Court declined to decide whether a judicial remedy would ever be available.

Justice Sullivan concurred, agreeing that the constitutional crisis passed too quickly for the Court to engage in factfinding that might have justified quo warranto relief. He further opined that the Court would have authority in a future case to remove quorum breakers from office.

E. CONTRACTS

1. Contractual Indemnity

a) *S&B Eng'rs & Constructors, Ltd. v. Scallon Controls, Inc.*, ___ S.W.3d ___, 2026 WL 705762 (Tex. Mar. 13, 2026) [24-0525]

This case concerns whether settling defendants can recover partial indemnification from a non-settling party under a contract provision for proportional or comparative indemnity.

After a 2015 workplace accident, injured workers sued Sunoco (the facility's owner) and S&B (a general contractor). Those parties settled the workers' claims. In a third-party suit, S&B and Zurich (Sunoco's insurer)

asserted that the negligence of Scallon (S&B's subcontractor) led to the injuries and, based on a proportional indemnification agreement, sought indemnification from Scallon for the settlement equal to its proportionate liability. The trial court and the court of appeals held that the settlement, to which Scallon was not a party, covered only S&B's and Sunoco's negligence, thus entitling Scallon to summary judgment.

The Supreme Court reversed. First, it concluded that while defendants cannot preserve common-law or statutory contribution rights by unilaterally settling a plaintiff's claim, that rule does not bar contractual allocations of risk through comparative indemnity provisions. Second, the Court held the express-negligence doctrine does not preclude enforcing the provision here because that provision disclaimed any duty for Scallon to indemnify S&B and Sunoco for those parties' negligence but instead required Scallon to indemnify them for whatever portion of liability is attributable to its own negligence. The Court reversed the court of appeals' judgment and remanded the case to the trial court for further proceedings, which would allow S&B and Zurich to pursue indemnification, requiring them to bear the burden of establishing the reasonableness of the settlement and Scallon's proportionate liability, if any. (Separately, the Court reversed the court of appeals' holding that Zurich's claims were time-barred.)

Justice Bland, dissenting, would hold that the parties' indemnity agreement did not indemnify S&B and Sunoco for their own negligence committed against noncontracting parties. Because the dissent would hold that the settlement was in payment for S&B and Sunoco's proportionate share of liability and not Scallon's, it would affirm the judgments of the lower courts.

2. Damages

a) *Champion Food Serv., Inc. v. ProAlamo Foods, L.L.C.*, ___ S.W.3d ___, 2026 WL 1785407 (Tex. June 19, 2026) [25-0297]

The issues in this case are whether ProAlamo may recover in quantum meruit and whether the trial court erred in awarding attorney's fees.

Champion purchased frozen meat products from ProAlamo, some of which were allegedly rancid. ProAlamo sued Champion for unpaid amounts and asserted claims for breach of contract and quantum meruit. Champion counterclaimed for breach of contract. After a jury trial, the jury found against ProAlamo on its contract claim but in ProAlamo's favor on its quantum meruit claim, awarding $46,396.58 in damages and $0 in attorney's fees. On Champion's breach of contract claim, the jury found that ProAlamo failed to comply with "the agreement" but awarded Champion $0 in damages. The trial court partially granted ProAlamo's motion for judgment notwithstanding the verdict and rendered judgment awarding ProAlamo $46,396.58 in damages for quantum meruit and $219,674 in attorney's fees. The court of appeals affirmed.

The Supreme Court reversed and rendered a take-nothing judgment. In a unanimous opinion by Justice

Lehrmann, the Court held that ProAlamo's quantum meruit recovery is barred as a matter of law because the provision of meat was covered by express agreements. The Court explained that quantum meruit is an equitable remedy that is generally barred when the parties have a valid agreement. The Court concluded that the trial evidence conclusively demonstrated the existence of valid agreements for Champion to purchase a certain amount of meat for a certain price and nothing in the record indicated that any meat was delivered outside the scope of those agreements. Because the Court rendered judgment on the quantum meruit claim, it held that ProAlamo was not entitled to recover attorney's fees as a matter of law and did not reach Champion's separate challenge to the amount of the fee award.

Chief Justice Blacklock filed a concurring opinion, stating that, even if ProAlamo could have recovered on its quantum meruit claim, the jury's award of $0 in attorney's fees was reasonable given the mixed result at trial and the trial court's large upward adjustment of the fee award was therefore improper.

b) *Wang v. Whittenburg*, ___ S.W.3d ___, 2026 WL 1355074 (Tex. May 15, 2026) [25-0350]

The issue in this case is whether attorney's fees in prior litigation are recoverable as actual damages in a suit for breach of a settlement agreement.

Heirs to a ranch entered into two settlement agreements to end years of litigation over ownership of the ranch. Under the settlement agreements, the heirs would negotiate a partition in kind. If negotiations failed, a court-appointed commissioner could partition the ranch. When the heirs could not reach a partition agreement, the Angela Kate heirs filed partition proceedings in New Mexico pursuant to the settlement agreements. The John Burk heirs attempted to stop the partition, resulting in extended litigation.

Angela Kate sued John Burk in Texas for breaching the settlement agreements. Angela Kate sought actual damages for the attorney's fees she incurred in the New Mexico partition proceeding because of John Burk's attempt to block the partition. The trial court found that John Burk breached the settlement agreements but concluded Angela Kate's attorney's fees were not damages as a matter of law and issued a take-nothing judgment. The court of appeals affirmed.

The Supreme Court reversed. The Court held that attorney's fees in prior litigation can be recoverable damages for breach of a settlement agreement when the breach was not a basis for the prior litigation. The Court concluded that Angela Kate incurred excess attorney's fees in the partition proceeding as the natural, probable, and foreseeable result of John Burk's breach of the settlement agreements and that breach was not a basis for the partition proceeding. The Court also held that Angela Kate can recover attorney's fees incurred in this litigation because she recovered breach-of-contract damages. The Court rendered judgment awarding Angela Kate damages and remanded the case to the trial court to reconsider reasonable and necessary attorney's fees.

c) *White Knight Dev., LLC v. Simmons*, 718 S.W.3d 203 (Tex. June 13, 2025) [23-0868]

The issue in this case is whether a seller awarded specific performance for breach of contract may also be compensated for expenses incurred due to the buyer's delay in performance.

White Knight Development purchased land from Dick and Julie Simmons. White Knight later invoked a "buy-back" provision that required the Simmonses to repurchase the property. The Simmonses refused, and White Knight sued. After a bench trial, the trial court found that the Simmonses breached the contract and awarded White Knight specific performance of the buy-back provision as well as a monetary award for various expenses White Knight incurred.

The court of appeals modified the judgment to delete the monetary award. Although it concluded that courts may award equitable compensation along with specific performance in narrow circumstances, it held that such an award was impermissible because the trial court did not expressly state that its monetary award was equitable.

The Supreme Court reversed in part. The Court held that in limited circumstances a plaintiff may both obtain specific performance and recover equitable compensation for the breaching party's delay in performing to restore the plaintiff to the position it would have occupied had the contract been timely performed. The Court explained that recoverable expenses must be reasonable, foreseeable, directly traceable to the delay in performance, and, in cases in which the buyer breached, incurred in connection with the seller's care and custody of the property during the delay. The Court concluded that the court of appeals erred by deleting the entire monetary award without analyzing whether some expenses were recoverable, so it remanded the case to the court of appeals.

3. Interpretation

a) *Am. Midstream (Ala. Intrastate), LLC v. Rainbow Energy Mktg. Corp.*, 714 S.W.3d 572 (Tex. May 23, 2025) [23-0384]

This case involves contract interpretation, repudiation, and lost-profits damages.

American Midstream owns the Magnolia natural gas pipeline. Rainbow, a natural gas trading company, contracted with American Midstream to transport natural gas on the Magnolia. The parties' contract required American Midstream to provide "firm" transportation and balancing services except where the contract excused its performance. American Midstream limited its balancing services on various occasions and claims that it was excused from performing under the contract. Rainbow claimed American Midstream repudiated the contract during a conference call. A month later, after continuing to ship gas under the contract, Rainbow terminated the contract, citing American Midstream's breach and repudiation.

Rainbow sued American Midstream for breach of contract, repudiation, fraud, fraudulent inducement, and negligent misrepresentation. After

a bench trial, the court found for Rainbow on all its claims, and Rainbow elected to recover on its breach-of-contract claim. The court of appeals affirmed.

The Supreme Court reversed. The Court held that the trial court improperly inserted language that the parties did not include themselves. The Court first remanded the parties' breach-of-contract claims for the trial court to determine whether the contract excused American Midstream's performance. Second, the Court rendered judgment for American Midstream on Rainbow's repudiation claim because American Midstream's communication of its interpretation of the contract, standing alone, was not repudiation. And third, the Court rendered judgment for American Midstream on Rainbow's tort claims because there was no falsity in American Midstream's representations that it could provide firm balancing services unless the contract excused its performance. The Court further held that Rainbow did not prove its lost-profits damages with reasonable certainty because it sought recovery for a new and untested enterprise.

b) *Equinor Energy LP v. Lindale Pipeline, LLC*, 731 S.W.3d 324 (Tex. Mar. 13, 2026) [24-0425]

At issue is whether a fracking company breached a contract with its water supplier by purchasing water from other suppliers.

Lindale Pipeline contracted with Equinor Energy's predecessor to provide water to Equinor's predecessor for its fracking operations. Under the contract, Lindale provided and pumped the water through a pipeline that ran directly to the well sites. Relevant here, the contract made Lindale the "exclusive water provider and pumper on the Pipeline." After Equinor acquired its predecessor, it began purchasing water for its wells from other suppliers that do not use the pipeline. Lindale sued Equinor for breach of contract, arguing that the contract gave Lindale the exclusive right to supply water for Equinor's fracking operations.

The district court deemed the exclusivity clause ambiguous and submitted the question of its meaning to a jury. The jury sided with Lindale, and the court of appeals affirmed.

The Supreme Court reversed and rendered judgment for Equinor. The Court held that the exclusivity clause unambiguously applied only to pumping operations "on the Pipeline." Because Equinor's wells were not "on the Pipeline," the Court concluded they fell outside the scope of the exclusivity clause and the district court erred in submitting the question of the clause's meaning to the jury.

c) *Spectrum Gulf Coast, LLC v. City of San Antonio*, ___ S.W.3d ___, 2026 WL 969172 (Tex. Apr. 10, 2026) [24-0794]

The issue in this case is whether a municipally owned public utility breached its contract with a telecommunications provider by charging discriminatory rates in contravention of a later-enacted statute.

CPS Energy, a public utility owned by the City of San Antonio, contracts with other entities that wish to attach equipment to CPS's utility poles

and thus provide services to their customers. In 1984, Spectrum's predecessor in interest executed such an agreement with CPS. AT&T later entered into a similar agreement.

Spectrum paid an increasing annual pole-attachment rate, while AT&T continued to pay the circa-1984 rate despite being invoiced for a higher rate. In 2008, Spectrum sued CPS for breach of contract and violations of pricing requirements in the Public Utility Regulatory Act, which was amended in 2005 to prohibit public utilities from discriminating for or against telecommunications providers. Spectrum eventually amended its petition to allege that by violating existing law, CPS's discriminatory rates also breached the contract. On permissive interlocutory appeal, the court of appeals held that the 1984 agreement did not incorporate subsequent changes in law, such as the 2005 statutory amendments.

The Supreme Court reversed. The Court held that the contract's text reflected the parties' joint commitment "at all times" to comply with "all laws" that affected their rights and obligations under the contract and that the parties understood that regulatory changes were inevitable in monopolistic industries such as utilities. Accordingly, the Court held that Spectrum was authorized to pursue its contract claim.

4. Releases

a) *Bryant Law Firm v. Walker*, ___ S.W.3d ___, 2026 WL 1261442 (Tex. May 8, 2026) (per curiam) [25-0131]

The issue in this case is whether the affirmative defense of accord and satisfaction applies when a client strikes through conspicuous release language before depositing a check tendered in settlement of a legal malpractice dispute.

Robert Walker hired Deborah Bryant to terminate his child support obligations. Walker later terminated Bryant as counsel and demanded a refund, complaining he had paid thousands of dollars in legal fees and child support with "nothing to show for it." Bryant responded by sending Walker a fee refund check bearing a conspicuous statement of release and asked him to sign and return an accompanying release agreement. Walker crossed out the release language on the check, deposited it, and never signed the release agreement. Walker later sued for malpractice. Bryant asserted accord and satisfaction as an affirmative defense, but the trial court directed a verdict for Walker on that defense. The jury awarded actual and exemplary damages to Walker. The court of appeals affirmed.

The Supreme Court reversed and rendered judgment for Bryant, holding that she conclusively established accord and satisfaction under both the common law and the Business and Commerce Code. The Court held that a bona fide dispute existed between the parties. The Court further held that even though Walker had crossed out the release language,

mutual assent was satisfied when he deposited the refund check with knowledge that it was conditioned upon a release of claims arising under the parties' attorney–client relationship.

F. CORPORATIONS

1. Nonprofit Corporations

a) *S. Methodist Univ. v. S. Cent. Jurisdictional Conf. of United Methodist Church*, 716 S.W.3d 475 (Tex. June 27, 2025) [23-0703]

At issue is whether a nonmember, nonprofit corporation may be sued by a controlling religious conference for amending the corporation's articles of incorporation without the conference's approval when those articles provided that no amendments shall be made without such approval.

Southern Methodist University is a nonmember, nonprofit corporation founded by a predecessor-in-interest to the South Central Jurisdictional Conference of the United Methodist Church. Since its founding, SMU's articles of incorporation have stated that it is to be owned and controlled by the Conference and that the articles may not be amended without Conference approval. In 2019, without Conference approval, SMU's board of trustees amended its articles to remove these and other provisions and filed a sworn certificate of amendment with the Texas Secretary of State. The Conference sued SMU, seeking declaratory relief regarding the validity of the 2019 amendments and asserting, among others, claims for breach of contract and filing a materially false amendment certificate.

The trial court dismissed some of the Conference's claims under Rule 91a before granting summary judgment for SMU on the remaining claims. The court of appeals reversed in pertinent part, holding that the Conference was authorized to challenge the 2019 amendments under the Business Organizations Code, that SMU's articles constituted a contract between SMU and the Conference, and that issues of fact precluded summary judgment on the Conference's false-filing claim.

The Supreme Court affirmed in part and reversed in part. After concluding that the church-autonomy doctrine did not deprive it of subject matter jurisdiction, the Court held that Business Organizations Code Section 22.207, which authorizes a religious conference to control a nonprofit educational corporation's board of directors, allows the controlling conference to sue the corporation for engaging in conduct that its articles of incorporation do not permit. Next, it held that, based on the pleadings, the Conference could pursue its breach-of-contract claim as a third-party beneficiary of SMU's articles, which constitute a contract between SMU and the State. Finally, the Court held that SMU was entitled to summary judgment on the Conference's false-filing claim because, considering the statements in the amendment certificate as a whole, the certificate did not constitute a "materially false instrument" as a matter of law. The Court remanded for further proceedings on the declaratory-judgment and breach-of-contract claims.

Justice Young concurred to express additional views on the church-autonomy doctrine.

Justice Bland dissented in part. She agreed that the Conference had authority to pursue its declaratory-judgment claims but would have reinstated the trial court's dismissal of the breach-of-contract claim.

2. Quo Warranto Actions

a) *Paxton v. Annunciation House, Inc.*, 719 S.W.3d 555 (Tex. May 30, 2025) [24-0573]

The issue presented is whether the trial court erred in granting injunctive relief based on the unconstitutionality of several state laws.

Annunciation House, Inc., a charitable organization, provides shelter to migrants. Based on suspicion it was violating state law that prohibits the harboring of illegal aliens, the Attorney General sought to inspect its records. He threatened to revoke its charter if it did not produce them.

Annunciation House sued the Attorney General, seeking declaratory relief that the statute authorizing his records request was unconstitutional. The Attorney General retracted the original records request but sought leave to file a quo warranto action to revoke Annunciation House's charter. The Attorney General claimed he had evidence of systemic harboring, a crime under Texas law. Annunciation House sought declaratory relief that the quo warranto action was also unconstitutional and requested injunctive relief.

The trial court granted summary judgment to Annunciation House. It held the records-request statute was unconstitutional for lack of a mechanism for pre-compliance review. As to the quo warranto filing, the Attorney General failed to adequately prove that Annunciation House harbored aliens; even if he had, alien harboring was not grounds for a quo warranto action; even if it were, the filing would violate the Texas Religious Freedom Restoration Act; and beyond all of that, the quo warranto action was unconstitutional on other grounds.

The Attorney General appealed directly to the Supreme Court, which reversed. It held the Attorney General has constitutional authority to file quo warranto actions, and denial of leave to file would require a facial showing that there was no legal basis to proceed. The Court rejected the trial court's conclusion that alleged criminal-law violations were an insufficient basis for quo warranto proceedings. It further held the Attorney General met his filing burden by plausibly alleging that Annunciation House violated the alien-harboring statute, and neither RFRA nor the Fourth Amendment defeated those allegations at the filing stage. As to alleged constitutional barriers to filing, the alien-harboring statute was neither unconstitutionally vague nor preempted by federal law, and a quo warranto action brought under the statute did not violate Annunciation House's constitutional rights as applied. As to the injunction against further records requests, Texas law guarantees an opportunity for pre-compliance review, so the statute was not unconstitutional. The Court accordingly reversed the trial court's judgment, vacated its orders in Annunciation House's favor, and remanded to that court for further proceedings.

G. DAMAGES

1. Exemplary Damages

a) *K&K Inez Props., LLC v. Kolle*, ___ S.W.3d ___, 2026 WL 1445582 (Tex. May 22, 2026) [24-0045]

The main issue in this suit between neighboring landowners is whether the trial court properly applied the statutory cap on exemplary damages.

The Kolles allege that the Kuceras and their company, K&K Inez Properties, caused flooding on the Kolles' property. The jury found for the Kolles on all liability theories and awarded damages for the reduced value of the Kolles' property and for the Kolles' loss of use, plus exemplary damages against David Kucera and K&K. The court of appeals reversed the loss-of-use award, thereby reducing the total amount of economic damages, but otherwise affirmed.

The Kuceras raised four issues in the Supreme Court: (1) the trial court improperly struck their designation of Victoria County as a responsible third party; (2) the trial court erred by refusing to submit questions regarding the Kolles' negligence and proportionate responsibility; (3) the judgment violated the one-satisfaction rule; and (4) the judgment improperly applied the statutory cap on exemplary damages.

The Supreme Court reversed as to exemplary damages. The Court first concluded that the exemplary-damages cap, which is based on "the amount of economic damages," requires consideration of only the damages for which that defendant is found proportionately responsible. The Court then held that the trial court improperly applied the exemplary-damages cap to each plaintiff's separate award of exemplary damages when there was only one amount of economic damages awarded to the Kolles jointly for damages to the property. It also held that the court of appeals should have reexamined whether the exemplary-damages award was unconstitutionally excessive after it reduced the amount of actual damages. The Court remanded the case to the trial court for proper application of the exemplary-damages cap.

H. DECEPTIVE TRADE PRACTICES ACT

1. Civil Investigative Demands

a) *Off. of Att'y Gen. v. PFLAG, Inc.*, 731 S.W.3d 301 (Tex. Mar. 13, 2026) [24-0892]

At issue is whether the trial court erred by ruling that PFLAG did not need to comply with a civil investigative demand issued by the Consumer Protection Division of the Office of the Attorney General.

The Office of the Attorney General sought to investigate whether medical providers were violating the State's ban on transgender treatment of minors, including whether they were defrauding insurers under the Deceptive Trade Practices Act. PFLAG is a nonprofit that describes itself "as a resource for LGBTQ people, families, and allies." The executive director of PFLAG filed an affidavit in another case describing certain activities of PFLAG families in response to a new state law prohibiting medical treatments for transitioning a child's biological sex. The DTPA authorizes the Attorney General to issue civil

investigative demands as part of an investigation of possible violations of the Act. The Attorney General issued a CID to PFLAG and then later issued a revised CID with a narrower scope that permitted the redaction of information identifying PFLAG members. PFLAG resisted the CIDs by seeking injunctive and other pretrial relief. The district court rendered a final judgment holding that PFLAG did not need to produce documents under any of the eight categories set out in the original CID that it had not already produced. The Attorney General brought a direct appeal to the Supreme Court.

The Court reversed the judgment, holding that (1) the district court should have analyzed the revised CID instead of the original CID, (2) the court failed to credit the Attorney General's reasonable interpretation of the affidavit and to appreciate its connection to the office's investigation, and (3) PFLAG should produce documents responsive to several of the document categories set out in the revised CID. The Court explained that on remand, PFLAG's obligation to produce documents is subject to its right to produce a privilege log and establish the existence of a recognized privilege for individual documents.

I. ELECTIONS

1. Candidates

a) *In re Rogers*, 728 S.W.3d 717 (Tex. Jan. 13, 2026) (per curiam) [26-0010]

The issue in this case is whether the Supreme Court should issue a writ of mandamus directing a party chair to certify to the Secretary of State that a candidate should be listed on the primary ballot for Justice of the Supreme Court.

The party chair rejected the candidate's ballot application as deficient. The candidate contested that determination and argued that any defects were cured by an amended application submitted after the statutory deadline. The Supreme Court first noted that it traditionally declines to issue mandamus when a claim depends on the resolution of genuinely disputed material facts. Here, a fact issue existed as to whether the signatures in the ballot application were valid. Second, the Court held that there was no basis to allow a cure in the form of an amended application. While the Court's jurisprudence favors ballot access, it also requires unusual dispatch in election cases, and examples of curing deficient applications were limited to cases when the application was filed early in the process. Here, by contrast, the ballot application was submitted just hours before the deadline, so any amended application would have been untimely. Accordingly, the Supreme Court denied the petition for writ of mandamus.

b) *In re Smith*, 727 S.W.3d 497 (Tex. Dec. 22, 2025) (per curiam) [25-1107]

The issue in this case is whether a candidate challenging the constitutionality of a statutory requirement for an application to appear on the primary ballot was entitled to mandamus relief directing that his name be included on the ballot.

The party chair rejected a candidate's application to appear on the primary ballot for Justice of the Supreme Court, asserting that the application

did not contain fifty valid signatures from each court of appeals district as required by statute. The candidate sought mandamus relief, seeking a declaration that the statutory requirement violates the Texas Constitution and an order directing the party chair to add his name to the ballot.

The Supreme Court denied relief. It concluded that the timing of the candidate's challenge made his mandamus petition an unsuitable vehicle to resolve the weighty question of whether a statutory provision is facially unconstitutional. The Court noted that the candidate failed to justify why he did not bring this claim earlier, at a time that would have allowed orderly resolution without disrupting the primary elections. The Court also concluded that the candidate's challenge was unlikely to succeed on the merits because the signature requirement at least plausibly constitutes a procedural requirement for orderly election administration rather than a ground for disqualification from office. In addition, the Court determined that the candidate was not entitled to mandamus relief because he did not provide a complete record and because his claim and his requested relief implicated other, unacknowledged constitutional issues that made emergency relief improper.

J. EMPLOYMENT LAW

1. Disability Discrimination

a) *Tex. Dep't of Pub. Safety v. Callaway*, ___ S.W.3d ___, 2026 WL 969173 (Tex. Apr. 10, 2026) [24-0966]

At issue is whether a former Department of Public Safety Special Agent sufficiently established his claim for disability discrimination to survive a plea to the jurisdiction.

While he was on medical leave to receive treatment for alcoholism and posttraumatic stress disorder, Chris Callaway received a call from counselors at his daughter's school reporting that they had detained Callaway's daughter due to a mental-health crisis. Callaway hurried to the school and loudly confronted one of the counselors. He also threatened to arrest two of the school district's police officers, who had arrived at the scene. Following an investigation, DPS terminated Callaway's employment.

Callaway sued DPS for disability discrimination. DPS filed a plea to the jurisdiction and hybrid motion for summary judgment. The district court denied DPS's motions, and the court of appeals affirmed.

The Supreme Court reversed and rendered judgment for DPS. The Court held that Section 21.105 of the Texas Labor Code does not prevent an employer from terminating an employee who cannot reasonably perform his job because of a disability. The Court concluded that DPS reasonably determined that Callaway's post-traumatic stress disorder impaired his ability to perform his job because giving him a sidearm and a badge and sending him out to handle stressful situations would endanger citizens and officers alike. The Court therefore held that the court of appeals erred by not dismissing Callaway's disability-discrimination claim.

2. Employment Discrimination

a) *Butler v. Collins*, 714 S.W.3d 562 (Tex. May 23, 2025) [24-0616]

This certified question concerns whether Chapter 21 of the Texas Labor Code, which governs causes of action arising out of various forms of discrimination, harassment, and retaliation in the workplace, abrogates certain common law tort claims against individual coworkers.

After Southern Methodist University denied Professor Cheryl Butler's application for tenure, Butler filed suit against SMU and various SMU employees, alleging she was subjected to a racially discriminatory tenure process. Butler asserted various statutory and common law claims, including Chapter 21 claims against SMU and common law claims of fraud, defamation, and conspiracy to defame against the employee defendants. The defamation claims stemmed from allegedly false statements the employee defendants made about Butler during the tenure process. The federal district court granted a motion to dismiss the common law claims brought against the employee defendants, holding the claims were abrogated by Chapter 21.

The Fifth Circuit certified the question whether Chapter 21 abrogates "a plaintiff-employee's common-law defamation and/or fraud claims against another employee to the extent that the claims are based on the same course of conduct as discrimination and/or retaliation claims asserted against the plaintiff's employer."

The Supreme Court answered the question "no." In *Waffle House, Inc. v. Williams*, the Court held that Chapter 21 provides the exclusive remedy against an employer when the "gravamen of a plaintiff's case" is Chapter 21-covered discrimination. However, Chapter 21 does not subject individual employees to liability, and the Court concluded that nothing in Chapter 21 indicates legislative intent to immunize a non-employer from recognized common law claims based on that individual's own tortious conduct. In so holding, the Court emphasized that to the extent the employer's and employee's conduct caused the same injury, the plaintiff is not entitled to a double recovery. The Court further noted that Butler's Chapter 21 and defamation claims are premised on alternative causation theories with respect to any employment-related damages.

K. EVIDENCE

1. Exclusion for Untimely Disclosure

a) *Diamond Hydraulics, Inc. v. GAC Equip., LLC*, 731 S.W.3d 901 (Tex. Mar. 27, 2026) [24-1049]

At issue in this case is whether there was good cause for Diamond Hydraulics to offer the testimony of an untimely identified expert.

Austin Crane Service hired Diamond Hydraulics to repair one of its cranes. That repaired crane later bent, and Austin Crane sued Diamond for breach of contract and breach of warranty. Diamond retained an engineering firm to study the crane and designated one of its engineers as an expert witness. Shortly before trial, that witness changed jobs, moved out of state, and refused to testify.

Diamond filed a motion to substitute a new testifying expert, which the trial court denied. Diamond proceeded to trial without a causation expert. The jury found for Austin Crane, Diamond appealed, and the court of appeals affirmed.

The Supreme Court held that the trial court abused its discretion when it found that Diamond lacked good cause for its untimely designation. While the "good cause" standard is demanding, the Court determined it was nevertheless met in this case. Because Diamond lacked control over the original expert's unavailability, attempted to find alternatives, and relied on this critical testimony, the Court concluded there was good cause for the late expert designation.

2. Expert Testimony

a) *In re Est. of Lopez*, 724 S.W.3d 847 (Tex. Nov. 7, 2025) (per curiam) [24-0315]

The issue in this case is whether the trial court committed reversible error by allowing a former family court judge to testify as an expert on whether the evidence established an informal marriage.

Elvira Gonzalez filed a bill of review from a judgment declaring heirship, alleging that she was the decedent's common-law wife and seeking a declaration that she was an heir. A jury was asked to determine whether she and the decedent were informally married. Gonzalez offered expert testimony from a former district court judge who opined, based on her experience as a family-law judge, that the evidence clearly showed Gonzalez and the decedent were informally married. The jury agreed, and the trial court rendered judgment awarding Gonzalez a share of the estate. The estate's representative appealed, arguing that the trial court erred by admitting the former judge's testimony. The court of appeals affirmed, concluding that any asserted error in admitting this testimony was harmless.

The Supreme Court reversed. In a per curiam opinion, the Court held that the trial court abused its discretion by admitting the former judge's testimony. The issue on which she opined—whether the evidence established an informal marriage—was within the average juror's knowledge, and therefore she did not provide specialized knowledge to help the jury determine a fact in issue. The Court held that the error was harmful because (1) the former judge's testimony was crucial to the only contested issue, on which the evidence conflicted; (2) the testimony was not cumulative; (3) Gonzalez's use of the testimony was calculated and not inadvertent; and (4) Gonzalez emphasized the expert's role as a former family-law judge. The Court remanded the case to the trial court for a new trial.

3. Medical Expense Affidavits

a) *Ortiz v. Nelapatla*, 734 S.W.3d 400 (Tex. May 1, 2026) [23-0953]

This personal injury case concerns the admissibility of partially controverted affidavits offered to prove the reasonableness and necessity of medical expenses.

Ortiz and Nelapatla were involved in a car crash, and Ortiz sued Nelapatla for negligence. Prior to trial,

Ortiz served three medical-provider affidavits pursuant to Civil Practice and Remedies Code Section 18.001. In response, Nelapatla timely served two counteraffidavits challenging the reasonableness and necessity of a portion of Ortiz's medical expenses from two of the providers. Ortiz offered both the affidavits and the counteraffidavits as evidence at trial. Nelapatla objected as to the two partially controverted affidavits and the counteraffidavits, asserting that they were inadmissible hearsay. The trial court sustained the objections.

The trial court rendered judgment on the jury's verdict for Ortiz, awarding past medical expenses in the amount reflected in the uncontroverted affidavit. A divided court of appeals affirmed.

The Supreme Court reversed. In an opinion by Justice Lehrmann, the Court explained that ordinarily expert testimony is required to prove the reasonableness and necessity of a claimant's medical expenses. However, Section 18.001 provides an alternative process whereby a claimant may serve an affidavit made by a medical-service provider or recordkeeper, which constitutes sufficient evidence to support a finding of fact on the reasonableness and necessity of the charges unless the opposing party serves a compliant counteraffidavit. The Court explained that while a counteraffidavit that controverts only a portion of the charged amounts renders the initial affidavit insufficient as to any controverted claims, it does not render the entire affidavit inadmissible; instead, a claimant may rely on the uncontroverted portion of the affidavit so long as the controverted portions are redacted. Further, the Court held that when a counteraffidavit attests to the portion of the claimed costs that is reasonable, the counteraffidavit is similarly admissible to support that claim.

Justice Sullivan dissented, arguing that when a statutorily compliant counteraffidavit is served challenging the reasonableness and necessity of any portion of the medical expenses reflected in an initial affidavit, the claimant may not submit either of the affidavits as evidence at trial and must present admissible evidence to prove those elements.

L. FAMILY LAW

1. Division of Community Property

a) *Landry v. Landry*, 731 S.W.3d 630 (Tex. Mar. 20, 2026) (per curiam) [24-0910]

At issue in this divorce case is whether the trial court properly characterized two investment accounts as Husband's separate property.

At trial, Husband's expert testified that two investment accounts Husband opened prior to marriage were his separate property. The expert traced the accounts' funds through monthly statements from January 2003 to June 2019 and concluded that the funds in the accounts remained identifiable as Husband's separate property. While his tracing analysis did not consider four months of statements from July 2018 to October 2018, he testified that those statements would not have affected his conclusions because the statements available to him established a consistent pattern of community income being withdrawn from the

accounts as quickly as it was earned. The trial court determined that the two accounts belong to Husband as his separate property.

This separate-property determination has been the subject of two intermediate appeals and two petitions for review. In 2022, the court of appeals reversed the trial court's judgment as to the two accounts because the expert did not review the four months of statements that were "missing" from the record. The Supreme Court granted Husband's petition for review and reversed. *Landry v. Landry*, 687 S.W.3d 512 (Tex. 2024). The Court ascertained that the four months of statements were in the trial and appellate record and directed the court of appeals to perform a new sufficiency analysis. On remand, the court of appeals once again reversed as to the two accounts. Husband filed another petition for review in the Supreme Court.

The Court reversed the court of appeals' judgment and rendered judgment that the two accounts were Husband's separate property. The Court explained that the trial court's separate-property determination was supported by clear and convincing evidence—specifically, unrebutted expert testimony that the accounts' funds retained their separate character over the course of over fifteen years. The Court held there was no basis to disturb the trial court's judgment because the unreviewed statements did not alter the expert's conclusions and, in any event, those statements were properly before the trial court when it divided the community estate.

2. Divorce Decrees

a) *Gopalan v. Marsh*, ___ S.W.3d ___, 2026 WL 1445580 (Tex. May 22, 2026) [25-0161]

This divorce proceeding presents a statutory-construction issue concerning the children's "primary residence" with respect to the allocation of possession between parents appointed joint managing conservators.

Mother and Father agreed to joint managing conservatorship of their children but disputed the allocation of parental rights and duties. A jury determined Father should have the exclusive right to designate the children's primary residence. The trial court adopted the verdict in its divorce decree but awarded Mother greater possession time, child support, most other parental rights, and conditional appellate attorney's fees. Father appealed, challenging these portions of the decree and other provisions unrelated to possession of the children. The court of appeals affirmed on all issues.

The Supreme Court affirmed in part, reversed in part, and remanded to the trial court. The Court held that, as used in the Family Code, the term "primary residence" does not refer to a home where the child lives less time than elsewhere. The decree's allocation of greater possession time to Mother therefore contravened the jury verdict, requiring remand for a new possession order. Because allocation of possession may inform the child-support award and assignment of other parental rights and duties, the Court also reversed and remanded those determinations. But the Court found no reversible error as to Father's other challenges

to unrelated decree provisions. Because Father was partially successful on appeal, the Court also held that Mother may not be entitled to the full award of contingent appellate attorney's fees.

b) *Morrison v. Morrison*, 729 S.W.3d 328 (Tex. Jan. 30, 2026) [24-0053]

The issue in this case is whether the trial court properly exercised its jurisdiction to enforce a divorce decree after one spouse failed to meet their obligations under the decree.

Rodney and Debbie Morrison divorced in April 2021. The divorce decree provided for the sale of certain marital property, including the marital residence, allocating half of the proceeds to each spouse. In the event that either spouse failed to comply with their obligations, the decree included a provision requiring that the fair market value of any undelivered or damaged property be assessed against the breaching spouse and "accounted for" out of the proceeds from the sale of the marital residence. Debbie alleged that Rodney damaged the marital residence before it was sold and refused to turn over designated personal property.

The trial court found that Rodney violated the divorce decree and awarded Debbie damages equal to one hundred percent of the proceeds from the marital residence's sale. The court of appeals held that the trial court's order modified the decree's division of property in violation of Chapter 9 of the Family Code. The court vacated the order and dismissed the case for lack of jurisdiction.

The Supreme Court reversed the court of appeals' judgment and remanded the case to the trial court. The Court held that the trial court had jurisdiction to enforce the decree and to award damages associated with breach of the decree but erred in reallocating the proceeds from the sale of the marital residence to Debbie without evidence of the damages resulting from breach of the decree. However, such error did not deprive the trial court of all jurisdiction to enforce the decree.

3. Jurisdiction

a) *In re C.S.*, ___ S.W.3d ___, 2026 WL 1614382 (Tex. June 5, 2026) [25-0008]

At issue in this case is whether the trial court lost jurisdiction over this parental-termination case for failure to grant an extension before the Family Code's automatic-dismissal date.

At the pretrial hearing, the trial court recognized that the statutory automatic-dismissal date was approaching and the need for an extension. She ordered counsel for the Department of Family and Protective Services to prepare an extension order before the automatic-dismissal date. No such order was submitted, and the court took no other step before the automatic-dismissal date. After that date passed, Mother moved to dismiss the case for lack of jurisdiction. The court entered its private notes from the pretrial hearing and issued an order purporting to retain the suit on its docket. Following the eventual trial, the court terminated Mother's parental rights. The court of appeals affirmed.

The Supreme Court held that the trial court had not granted a timely extension. The Court concluded that the trial court expressed an intention

to grant an extension but did not. Even if that oral expression could have constituted granting an extension, the Court determined that it would still have been ineffective because it was not rendered in writing or on the record before a court reporter. Because the case was not extended, the Court held, it was automatically dismissed by operation of law; the trial court therefore lacked jurisdiction to terminate Mother's parental rights, and the court of appeals lacked jurisdiction to adjudicate the merits on appeal. Accordingly, the Court vacated the judgments of the lower courts and dismissed the case.

Justice Lehrmann dissented. She would have held that the trial court did not lose jurisdiction because the court orally granted an extension on the record, in a manner authorized by the Family Code, before the statutory dismissal date passed.

4. Spousal Support

a) *Mehta v. Mehta*, 716 S.W.3d 126 (Tex. June 20, 2025) [23-0507]

At issue in this case is whether the trial court abused its discretion in awarding spousal maintenance in a divorce decree.

Before they divorced, Hannah and Manish Mehta had three children, one of whom was a "medically fragile" child. The trial court ordered Manish to pay child support and spousal maintenance to Hannah. Manish appealed. The court of appeals reversed the spousal maintenance award, concluding that Hannah presented insufficient evidence that she would lack sufficient property after the divorce to meet her minimum reasonable needs. Hannah petitioned the Supreme Court for review.

The Court reversed and reinstated the spousal maintenance award. The Court held that the court of appeals erred by considering only the incomplete quantitative evidence of Hannah's expenses to the exclusion of other evidence, including testimony that she was unable to pay essential, basic living expenses. The Court also concluded that courts may consider child support payments received by the spouse seeking maintenance, provided that the court also considers child-related expenses that the custodial spouse will incur. Hannah provided sufficient evidence that she would lack sufficient property after the divorce to provide for her minimum reasonable needs. Because Hannah also established that she is the custodial parent of a disabled child requiring substantial care and personal supervision, the trial court did not abuse its discretion in finding that she was eligible for spousal maintenance.

Justice Lehrmann filed a concurring opinion, emphasizing that courts determining eligibility for spousal maintenance should consider all available income—including child support payments—and all reasonable expenses—including child-related expenses—because both materially affect the seeking spouse's ability to meet her minimum reasonable needs.

5. Termination of Parental Rights

a) *D.V. v. Tex. Dep't of Fam. & Protective Servs.*, 722 S.W.3d 854 (Tex. Oct. 31, 2025) [24-0840]

At issue in this case is whether the Department of Family and Protective Services orally abandoned its request for termination of D.V.'s parental rights to her child at trial.

In January 2021, the Department removed D.V.'s child from her home and sued to terminate her parental rights after receiving reports of domestic violence. At trial, the Department's designated representative—one of its caseworkers—testified both on direct and cross-examination that the Department no longer sought to terminate D.V.'s parental rights but to limit her status to parent non-conservator with no rights of visitation or contact. The Department took no steps to controvert this assertion, but the trial court terminated D.V.'s rights. The court of appeals affirmed, holding that the Department had not abandoned its pleading, relying on what it regarded as the trial's larger context.

The Supreme Court reversed. It held that in parental-termination cases, which are distinct from other civil litigation for various reasons, an unequivocal assertion by the Department—including its designated representative—constitutes withdrawal of a request for termination. A court may not order termination, therefore, unless the Department clearly repudiates the assertion that termination is no longer sought. In this case, the caseworker's statement was unequivocal. No contextual features at trial that the court of appeals or the Department identified constitute repudiation of that unequivocal statement, so the trial court lacked authority to order termination. The Supreme Court therefore remanded to the trial court with instructions to appoint D.V. a parent non-conservator, consistent with the caseworker's testimony and D.V.'s request.

b) *In re H.S.*, ___ S.W.3d ___, 2026 WL 1614496 (Tex. June 5, 2026) [24-0307]

At issue in this case is whether legally sufficient evidence supported the termination of both Mother's and Father's parental rights when Father, but not Mother, had threatened and committed acts of self-harm and domestic violence.

Mother had a strained marriage with Father, who repeatedly threatened and committed acts of self-harm, sometimes in front of their children. When Father eventually assaulted Mother, she fled with the children. The Department of Family and Protective Services sent a family-based safety services specialist. It later removed the children from the home and sought termination. Several months before trial, the court suspended the parents' visitation with their children.

Mother filed a motion asking the court to retain the suit and set a new dismissal date, which would allow Mother to continue working her services. The court denied the motion. At trial, the Department argued that Father's violent conduct had endangered the children and that Mother endangered them by allowing them to remain around Father. In accordance with the

jury's verdict, the court terminated Mother's and Father's parental rights, and the court of appeals affirmed.

The Supreme Court held that the trial court erred in denying Mother's motion to retain the suit and set a new dismissal date. The Court explained that Mother had shown significant progress on her services, but without any interaction with the children for seven months, she could not fully demonstrate the effect of that progress. It also noted that the children had been on a dangerous trajectory since being wholly separated from their parents, with two of them requiring admission to a psychiatric hospital. The Court further held that insufficient evidence supported the finding that termination of Mother's parental rights was in the children's best interest because Mother had demonstrated an increased awareness of the threat that Father posed to her and the children and a willingness to protect the children from Father. The Court concluded, however, that sufficient evidence supported the termination of Father's parental rights. Accordingly, the Court reversed the judgment of the court of appeals with respect to Mother, rendering judgment in her favor, and affirmed the judgment with respect to Father.

Justice Lehrmann dissented in part. She agreed with the Court's disposition as to Father but would have affirmed the termination as to Mother because legally sufficient evidence supported the jury's findings on both predicate termination grounds and best interest.

c) *In re J.D.H.*, ___ S.W.3d ___, 2026 WL 1765401 (Tex. June 19, 2026) (per curiam) [25-0588]

At issue in this case is whether a parent may pursue an appeal of a judgment terminating her parental rights if her attorney rendered ineffective assistance of counsel by failing to file a timely notice of appeal of the judgment.

Following the trial court's rendition of a final judgment terminating Mother's parental rights, her attorney filed a timely motion for new trial. Based on a mistaken belief that the motion extended the appellate deadlines, the attorney filed an untimely notice of appeal. The court of appeals dismissed the appeal for lack of jurisdiction, holding that Mother's counsel's alleged ineffective assistance would not excuse the untimely notice or vest the court with appellate jurisdiction.

The Supreme Court reversed in a per curiam opinion, holding that a parent whose counsel rendered ineffective assistance by failing to file a timely notice of appeal may pursue an out-of-time appeal. The Court first discussed the well-settled precedent holding that a parent subject to a parental termination proceeding, which implicates fundamental rights, is entitled to effective assistance of counsel. The Court then found guidance in criminal cases, in which defendants are also entitled to effective assistance of counsel and in which the courts grant habeas relief following a trial court's determination that counsel rendered ineffective assistance by filing an untimely notice of appeal. The Court concluded that a similar course must be followed in parental termination cases.

However, the Court noted that an evidentiary hearing is required to determine whether an attorney's failure to file a timely notice of appeal constituted ineffective assistance. It also explained that the Family Code's prohibition against direct and collateral attacks on a termination judgment instituted more than six months after the judgment was signed provides a strict deadline on a parent seeking to challenge such a judgment, even when the challenge is premised on ineffective assistance of counsel.

Justice Sullivan dissented, opining that an untimely notice of appeal cannot confer jurisdiction on an appellate court in any proceeding, including a parental termination proceeding, even when the failure to timely file the notice is the lawyer's fault.

d) *In re J.Z.A.*, ___ S.W.3d ___, 2026 WL 1838580 (Tex. June 26, 2026) (per curiam) [25-0787]

The issue is whether a court-ordered service plan was sufficiently specific to support termination of parental rights under now-repealed Paragraph (O).

Mother's child was removed based on concerns about Mother's mental health. The Department of Family and Protective Services developed a reunification plan, which the trial court later adopted as a court order, directing Mother to "follow through with all recommendations" from a psychiatrist, submit to a mental-health assessment at a designated facility, and "utilize learned skills in [parenting] classes" during visits with her child. Mother complied with most requirements, but she (1) declined to take subsequently prescribed antipsychotic medication, (2) went to a different facility for her assessment, and (3) demonstrated troubling behavior during some visits. The trial court terminated Mother's parental rights under former Paragraph (O), which permitted termination for noncompliance with a court order that "specifically established" the actions required for reunification. The court of appeals affirmed.

The Supreme Court reversed in part and reinstated Mother's parental rights. The Court held that (1) the service plan did not specifically establish a medication requirement because the psychiatrist's recommendation postdated the court's adoption of the plan and the phrase "follow through with all recommendations" was too general to satisfy the statutory standard, (2) no evidence supported the conclusion that an assessment at only the designated facility was material, and (3) the plan did not specifically establish any skills, knowledge, or behaviors that Mother was to utilize from her parenting classes during visitation. The Court noted that Mother did not challenge the Department's appointment as permanent managing conservator, so that portion of the termination order remained undisturbed.

e) *In re K.N.*, ___ S.W.3d ___, 2026 WL 1614378 (Tex. June 5, 2026) [24-0881]

In this case Mother and Father challenged the trial court's jurisdiction and the sufficiency of the evidence supporting the termination of their parental rights.

Mother has four children, the three youngest of whom she shares with Father. When the Department of Family and Protective Services began investigating reports that Mother was mistreating her eldest child in the shared family home, Mother and Father declined to cooperate with the investigation or participate in family services. Eventually, the Department initiated removal and termination proceedings against Mother and Father shortly after they relocated from Texas to Louisiana with all four children.

After a jury trial, Father's parental rights were terminated as to the three shared children based on endangerment, constructive abandonment, and failure to comply with a court order. Mother's rights were terminated on the same grounds but only as to the child who is not Father's. Despite finding that termination grounds also existed for Mother as to the three shared children, the jury found that termination of Mother's parental rights was not in their best interest. Both parents appealed, and the court of appeals affirmed, holding the evidence was factually and legally sufficient to support the endangerment and best-interest findings.

The Supreme Court affirmed the termination of Mother's rights but reversed as to Father's rights. In an opinion by Justice Hawkins, the Court rejected Mother's argument that her methods of punishment were merely traditional disciplinary techniques. Instead, the Court emphasized that the record contained sufficient evidence regarding the character of Mother's punishment to enable the jury to find that Mother's discipline was abusive in nature. But the Court concluded that the record lacked similar evidence as to Father—thus, the evidence was not legally sufficient to support the termination of Father's rights on endangerment grounds. Finally, the Court rejected Mother and Father's challenges to the trial court's jurisdiction, holding their arguments were not preserved for review because they challenged statutory requirements rather than the court's subject-matter jurisdiction.

Chief Justice Blacklock filed a concurring opinion. He emphasized that Mother's discipline of her eldest child was motivated by a malicious intent rather than a remedial intent.

Justice Bland dissented in part. She would have affirmed the court of appeals' judgment that the evidence was legally sufficient to support the termination of Father's rights on endangerment grounds.

f) *In re N.L.S.*, 715 S.W.3d 760 (Tex. June 13, 2025) (per curiam) [23-0965]

The issue in this case is whether legally sufficient evidence supported the trial court's finding that a parent engaged in conduct that endangered his child's well-being.

The Department of Family and Protective Services removed N.L.S. and from his mother's home and initiated termination proceedings against the parents, including Petitioner, N.L.S.'s father. Father has an extensive criminal history and has been incarcerated for most of N.L.S.'s life.

The trial court terminated Father's parental rights to N.L.S., finding that he engaged in conduct or knowingly placed N.L.S. with persons who

engaged in conduct that endangered N.L.S.'s physical or emotional well-being under Family Code Section 161.001(b)(1)(E) and that termination was in N.L.S.'s best interest.

The court of appeals reversed. It held the evidence was legally insufficient to support termination because the Department did not establish a causal link between Father's criminal conduct and any alleged endangerment to N.L.S.

The Supreme Court reversed. It held that a parent's pattern of behavior that presents a substantial risk of harm to the child permits a factfinder to reasonably find endangerment under (E). Proof that the parent's conduct directly harmed the child is not required. Father's pattern of escalating criminal convictions, his choice to not monitor N.L.S.'s safety during his incarceration, and his minimal efforts to be part of N.L.S.'s life supported the trial court's endangerment finding. The Court remanded to the court of appeals to review the factual sufficiency of the endangerment finding, as well as the legal and factual sufficiency of the finding that termination was in N.L.S.'s best interest.

Chief Justice Blacklock filed a dissenting opinion. He would have affirmed the court of appeals' judgment that the evidence was legally insufficient to support termination under (E).

g) *Stary v. Ethridge*, 712 S.W.3d 584 (Tex. May 2, 2025) [23-0067]

At issue in this case is the standard of proof that must support a domestic violence protective order barring parent-child contact for longer than two years.

Christine Stary and Brady Ethridge divorced in 2018 and agreed to share custody of their three children. In 2020, Ethridge applied for a protective order against Stary, alleging that Stary had committed conduct constituting felony family violence. The trial court granted the order, which, among other restrictions, prohibited Stary from communicating with her children for Stary's lifetime. The court of appeals affirmed, holding that due process does not require clear and convincing evidence to grant a lifetime protective order against a parent because such an order does not terminate parental rights.

The Supreme Court reversed. The Court first held that the protective order deprived Stary of her fundamental right to make decisions concerning the care, custody, and control of her children by prohibiting all contact with them. The Court next held that due process requires clear and convincing evidence to support the requisite findings for protective orders barring parent-child contact exceeding two years. Like parental termination orders, no-contact protective orders exceeding two years break the ties between parent and child and thus require a heightened evidentiary burden to reduce the risk of an erroneous deprivation of the fundamental right to parent. Finally, the Court held that a trial court must consider the best interest of the child in deciding whether to prohibit parental contact beyond two years.

The Court remanded the case to the trial court for a new protective order hearing in light of the standards announced.

M. FEDERAL PREEMPTION

1. Railway Labor Act

a) *Boeing Co. v. Sw. Airlines Pilots Ass'n*, 716 S.W.3d 140 (Tex. June 20, 2025) [22-0631]

This case concerns preemption under the Railway Labor Act and associational standing.

SWAPA represents Southwest Airlines pilots and negotiates collective bargaining agreements with Southwest on their behalf. Boeing manufactures planes, and in 2011, launched the new 737 MAX. Southwest wanted its pilots to fly the MAX; the pilots refused. SWAPA alleges that Boeing inserted itself into SWAPA's negotiations with Southwest and falsely assured SWAPA that the MAX was safe to fly without additional training. SWAPA relied on Boeing's misrepresentations when it entered into a new contract, agreeing to fly the MAX. But after two MAX planes crashed, the FAA grounded them.

SWAPA sued Boeing. Boeing filed a plea to the jurisdiction arguing that (1) the Railway Labor Act preempts SWAPA's claims and (2) SWAPA lacks "associational standing" to pursue the claims on the individual pilots' behalf. In response to Boeing's standing challenge, SWAPA members assigned their claims against Boeing to SWAPA. Boeing then amended its plea to argue that the assignments are void as against public policy because they attempt to circumvent Texas law's associational-standing and class-action requirements. The trial court granted the plea and dismissed SWAPA's claims with prejudice.

The court of appeals held that (1) the Railway Labor Act does not preempt SWAPA's claims, (2) SWAPA lacks associational standing to pursue the claims on its members' behalf, but (3) the assignments are not void. The court modified the judgment so that it dismissed SWAPA's associational claims without prejudice.

The Supreme Court affirmed. It held that SWAPA's claims were not preempted because they do not depend on the interpretation of a collective bargaining agreement and the assignments are not void as against public policy. SWAPA therefore has standing to pursue its members' individual claims in a second suit, and the court of appeals did not err in modifying the judgment to dismiss without prejudice. The Court remanded to the trial court for further proceedings on the claims SWAPA asserted on its own behalf.

Justice Bland dissented in part. She would hold that the assignments are void because they attempt to circumvent statutory requirements for associational standing.

N. GOVERNMENTAL IMMUNITY

1. Condemnation Claims

a) *State v. JRJ Pusok Holdings, LLC*, ___ S.W.3d ___, 2026 WL 1699922 (Tex. June 12, 2026) [24-0447]

The central issue in this case is whether sovereign immunity is waived when a landowner sues to repurchase condemned property the State deems no longer necessary for public use.

The State offered to purchase the Pusoks' property for a highway project and informed them of their

statutory and constitutional rights in condemnation proceedings as required by law. When the Pusoks did not accept the offer, the State filed a petition for condemnation. The parties settled as to the value of the property, and the Pusoks transferred the property to the State. Two years later, the Pusoks sought to exercise their statutory right to repurchase a portion of the property after the State deemed that portion no longer necessary for public use. When the State refused, the Pusoks sued to enforce their repurchase right found in Property Code Chapter 21. The trial court granted the State's plea to the jurisdiction based on sovereign immunity and dismissed the case. The court of appeals reversed, holding that Chapter 21 provides a waiver of immunity.

The Supreme Court affirmed. The Court explained that the Legislature placed the right of repurchase in a chapter governing eminent domain and the State is not immune in such cases. Such a reading, the Court concluded, effectuates recent amendments to the Texas Constitution that restrict the State's takings power and acknowledge a landowner's right to repurchase property at the price the State paid for it. The Court further held that property is acquired "through eminent domain" when the State exercises its takings power to obtain the land even though the parties reach agreement as to the value of the land taken. The Court concluded that Chapter 21 permits the repurchase of a portion of the property originally taken when only that portion is no longer necessary for public use and district courts and county courts at law have concurrent jurisdiction to hear repurchase claims.

Justice Young concurred, noting his view that assessing whether a statute waives sovereign immunity should be simpler than the Court's precedents suggest.

Justice Hawkins dissented and would have held that Chapter 21 does not waive sovereign immunity for repurchase claims. He would have further held that any immunity waiver is not properly invoked here because the property at issue was not acquired through eminent domain and the Pusoks brought this suit in a court outside the scope of the putative waiver.

2. Independent Contractors

a) *MV Transp., Inc. v. GDS Transp., LLC*, ___ S.W.3d ___, 2026 WL 1261443 (Tex. May 8, 2026) [24-0924]

The primary issue is whether the Transportation Code requires dismissal of a fraud claim brought against a defendant who was performing the function of a regional transportation authority. A preliminary issue concerns how courts should review a Rule 91a claim when important documents are omitted from the record.

The Dallas Area Rapid Transit Authority contracted with MV Transportation to operate certain services for mobility-impaired users. MV's subsidiary then subcontracted with GDS Transport to provide the services under MV's management. GDS later terminated the contract and sued MV for fraud, other torts, and breach of contract.

MV moved to dismiss the fraud claim under Rule 91a. The motion was based in part on the Transportation Code, which limits the damages

liability of an independent contractor for a regional transportation authority when the contractor performs a function of the authority. The trial court granted the motion, but the court of appeals reversed.

A "master agreement" between MV and DART lies at the heart of the case and is the focus of GDS's live pleading. But it was not included in the appellate record.

The Supreme Court cautioned parties to ensure the accuracy and completeness of the records but held that the agreement's absence from the record does not foreclose appellate review. The Court observed that when an original petition invokes or excerpts a document, that document is not mere "evidence" but may instead be regarded as part of the petition itself. It noted that if a court deems it necessary to see the document's full contents to resolve the motion, the court can demand the document's production without undermining its status as part of the petition. But the Court also noted that when the parties agree on the document's relevant text, it is even less essential for the document to be in the record. GDS's allegations described and quoted the master agreement and neither party contested what it said, so the Court concluded that appellate courts can test the legal viability of claims under these circumstances.

The Supreme Court further observed that the live pleading unambiguously depicted MV as having total control over the relevant operations. Thus, it held that the fraud claim was barred under the Transportation Code because GDS could not have recovered from DART for that claim. The Court reversed the court of appeals' judgment, reinstated the dismissal of the fraud claim, and remanded the case for further proceedings.

b) *Third Coast Servs., LLC v. Castaneda*, 726 S.W.3d 201 (Tex. Dec. 12, 2025) [23-0848]

At issue in this case is whether the statute providing a defense from liability for a contractor who constructs or repairs a highway "for the Texas Department of Transportation" requires contractual privity between that contractor and TxDOT.

Pedro Castaneda was fatally struck by two trucks while he drove across State Highway 249. At the time of the accident, the intersection and surrounding area were under construction because Montgomery County was constructing a toll road over the SH 249 right-of-way under a contract with TxDOT. Castaneda's family sued SpawGlass, the County's general contractor, and Third Coast, a subcontractor hired to install traffic signals.

SpawGlass and Third Coast moved for summary judgment under a statute that extinguishes liability against a contractor who constructs or repairs a highway, road, or street for TxDOT if certain other requirements are met. The trial court denied summary judgment. The court of appeals affirmed, holding that the statute does not apply because the contractors failed to establish that they have a contractual relationship with TxDOT.

The Supreme Court reversed. It held that the statute does not limit its application to contractors who contract with TxDOT directly. The Court instead concluded that a contractor's

work is for TxDOT, and therefore within the statute's scope, if TxDOT will be a recipient, owner, or user of that work. Here, because the contractors performed work on a part of the project TxDOT would operate and maintain, the contractors conclusively established that their work was for TxDOT. The Court also held that work on traffic signals constitutes construction or repair of a highway within the meaning of the statute. The Court remanded the case to the court of appeals to determine whether the contractors conclusively established the other elements of their statutory defense.

3. Official Immunity

a) *City of Mesquite v. Wagner*, 712 S.W.3d 609 (Tex. May 2, 2025) (per curiam) [23-0562]

At issue in this case is whether an on-duty K-9 police officer was acting in good faith when his police service dog bit a fleeing criminal suspect.

Jason Crawford, an officer for the Mesquite Police Department, was on overnight K-9 duty when he received a call for assistance at the scene of a burglary in progress. When Officer Crawford arrived, he was directed to pursue multiple fleeing suspects on foot. One such suspect, Anthony Wagner, was arguing loudly with another officer while he was being placed in custody. Although Officer Crawford held his service dog, Kozmo, to his left side as he attempted to pass the altercation occurring on his right, Kozmo abruptly lunged toward Wagner, causing Officer Crawford to trip over the leash and fall. Kozmo bit Wagner, who was treated at a nearby hospital. Wagner sued the City of Mesquite, alleging his injury was caused by Officer Crawford's negligent handling of Kozmo.

The City filed a plea to the jurisdiction, arguing that it was entitled to governmental immunity because Officer Crawford retained official immunity at the time of the incident. The trial court denied the plea. The court of appeals affirmed, holding the City failed to establish that Officer Crawford was acting in good faith.

The Supreme Court reversed, holding Officer Crawford was entitled to official immunity that afforded the City derivative governmental immunity. Considering Officer Crawford's sworn affidavit submitted with the City's plea, the Court emphasized that Officer Crawford's description of the chaotic conditions was sufficient evidence of good faith that Wagner failed to controvert.

4. Recreational Use Statute

a) *City of San Antonio v. Realme*, 731 S.W.3d 342 (Tex. Mar. 13, 2026) [24-0864]

At issue in this case is whether a holiday-themed footrace is "recreation" under Texas's Recreational Use Statute.

While participating in a Turkey Trot 5K held in San Antonio, Nadine Realme tripped over a metal pole fragment and broke her arm. She sued the City of San Antonio for negligence and gross negligence. The City moved for summary judgment, arguing that Realme's negligence claim is barred under the Recreational Use Statute, which immunizes the City from ordinary negligence claims when a person "engages in recreation" on City property. The trial court denied the motion,

and the court of appeals affirmed. The City petitioned the Supreme Court for review.

The Supreme Court reversed and held that Realme's negligence claim fails as a matter of law because participation in a holiday-themed footrace plainly falls within the ordinary meaning of "recreation." The Court observed that community fun runs like a Turkey Trot 5K bear the hallmarks of recreation, as participants run in these races for enjoyment and amusement. The Court concluded that it is inappropriate to abandon this ordinary meaning in an attempt to shoehorn the activity into one of the many illustrative examples of "recreation" enumerated in the statute. Rather, such illustrative lists serve as an error-check to ensure the scope of a defined term is appropriately construed. The Court held that nothing in the statute's list suggests "recreation" should be so narrowly construed to exclude a community fun run.

The Supreme Court remanded to the court of appeals to decide in the first instance whether Realme should prevail on her gross-negligence claim.

5. Texas Tort Claims Act

a) *City of Houston v. Gomez*, 716 S.W.3d 161 (Tex. June 20, 2025) (per curiam) [23-0858]

This case concerns the circumstances in which a city's immunity is waived under the Texas Tort Claims Act when a police officer is responding to an emergency call.

A Houston police officer responding to an armed robbery in progress collided with another vehicle. The other driver sued the City of Houston for negligence. The City filed a plea to the jurisdiction, arguing the Act's waiver of immunity did not apply because the officer was responding to an emergency call. The trial court granted the plea, but the court of appeals reversed, concluding there was a disputed fact question as to whether the officer acted with conscious indifference or reckless disregard for the safety of others. On remand, the trial court denied the City's renewed plea to the jurisdiction, and the court of appeals affirmed. As to the officer's alleged recklessness, the court of appeals concluded that its original decision controlled as the law of the case.

The Supreme Court reversed and dismissed the claim. The Court held that the officer's actions amounted to no more than ordinary negligence, so there was no fact issue as to whether the officer acted with conscious indifference or reckless disregard. The Court also concluded that the court of appeals should have analyzed the evidence under this Court's more recent controlling precedents rather than relying on the law of the case doctrine.

b) *City of Houston v. Manning*, 714 S.W.3d 592 (Tex. May 23, 2025) (per curiam) [24-0428]

The main issue in this case is whether the Texas Tort Claims Act waived the City of Houston's governmental immunity against claims based on negligence per se.

After a city fire engine operated by William Schmidt struck Chelsea Manning's vehicle, Manning sued the City, asserting various claims including negligence per se under the TTCA's waiver of immunity. To prove that Schmidt was negligent per se,

Manning relied on various statutory standards of care under the Transportation Code. The City moved for summary judgment, asserting governmental immunity, but the trial court denied the City's motion. The court of appeals affirmed in relevant part. Viewing negligence per se, like simple negligence, as just one method of proving a breach of duty, the court held that the TTCA's waiver included claims based on negligence per se.

The Supreme Court affirmed in part. Citing Section 101.021(1) of the TTCA, which, among other things, waives governmental immunity for harm resulting from "negligence," the Court held that Manning's negligence per se claims were within the scope of the TTCA's waiver. When the statutory standard of care providing the basis for a negligence per se claim functions merely to define more precisely what conduct breaches the common law duty, the claim remains one for negligence and falls within the scope of the waiver. The Court remanded the case to the court of appeals for reconsideration of the City's other issues in light of the Court's recent decisions.

6. Ultra Vires Claims

a) *Tex. Dep't of State Health Servs. v. Sky Mktg. Corp.*, 733 S.W.3d 689 (Tex. May 1, 2026) [23-0887]

The issue in this case is whether the court of appeals erred in affirming the trial court's grant of a temporary injunction and denial of the plea to the jurisdiction.

The Commissioner of the Texas Department of State Health Services is responsible for maintaining Texas's schedules of controlled substances. After the Commissioner modified certain definitions within those schedules in 2021, a group of hemp vendors sued the Commissioner and the Department, seeking temporary and permanent injunctions and declaratory relief. The vendors asserted ultra vires claims against the Commissioner, alleging that her modifications purported to control hemp products that the 2019 Texas Farm Bill expressly legalized. The vendors also brought a claim against the Department under the Texas Administrative Procedure Act, asserting that a statement on the Department's website was an invalid rule under the Act. The Department and Commissioner responded with a plea to the jurisdiction, asserting sovereign immunity and challenging the vendors' standing. The trial court granted the temporary injunction and denied the plea to the jurisdiction. The court of appeals affirmed on both counts.

The Supreme Court reversed the grant of the temporary injunction. The Court first held that the vendors have standing and that their claims are ripe for judicial review. It then held that sovereign immunity bars the vendors' ultra vires claims because Texas law reposes significant discretion in the Commissioner to establish and modify the schedules and that the Legislature has not eliminated her discretion in a way that rendered the challenged actions ultra vires. The Court also held that sovereign immunity bars the vendors' remaining claims against the Department because the website statement is not a rule subject to the APA.

7. Waiver

a) *Tex. Gen. Land Off. v. Save-RGV*, ___ S.W.3d ___, 2026 WL 1765503 (Tex. June 19, 2026) [24-0237, 24-0407, 24-0457]

The issue in this case is whether private organizations may challenge statutes authorizing public beach closures as unconstitutional.

The Legislature enacted laws that allow governmental officials to temporarily close Boca Chica Beach to protect the public from nearby space flight activities. Organizations suing on behalf of their beachgoing members sought declarations that these statutes violate Article I, Section 33 of the Texas Constitution, which grants the public a right to use and access public beaches. The attorney general intervened to defend the statutes, and all defendants filed pleas to the jurisdiction. The trial court granted all pleas and dismissed the case with prejudice.

The court of appeals reversed, holding that at least one plaintiff had standing to sue and that plaintiffs' claims for declaratory relief are not barred by governmental immunity. The court declined to analyze the facial validity of plaintiffs' claims, reasoning that this analysis was unnecessary because plaintiffs challenged a statute, rather than governmental actions, as unconstitutional.

The Supreme Court reversed and reinstated the trial court's judgment of dismissal. It first held that the court of appeals erred by not analyzing the facial validity of plaintiffs' claims when considering defendants' immunity challenge. The Court explained that a constitutional claim must be facially valid to waive immunity whether it challenges a statute or governmental conduct. The Court then held that plaintiffs' claims are not viable because Section 33 expressly states that it "does not create a private right of enforcement." The Court concluded that this express disclaimer precludes private parties from suing to enforce the rights described in Section 33; enforcement of those rights was intended to reside solely with governmental actors. The Court rejected plaintiffs' argument that Section 33's placement in the Bill of Rights overrides this express disclaimer.

O. INSURANCE

1. Appraisal Clauses

a) *In re ACE Am. Ins. Co.*, ___ S.W.3d ___, 2026 WL 1261448 (Tex. May 8, 2026) [25-0461]

The issue in this case is whether the trial court abused its discretion by denying a motion to compel an appraisal under an insurance policy.

A group of insurers provided commercial-property policies covering a warehouse. After the warehouse flooded, the insured property owner and the insurers disagreed about the scope and cost of the repairs, so the insurers invoked the policies' appraisal provision. When the insured refused to participate, the insurers filed suit and moved to compel appraisal. The trial court denied the motion, and the court of appeals denied mandamus relief.

The Supreme Court conditionally granted the insurers' petition for writ of mandamus. The Court noted that appraisal clauses provide a means for insurers and insureds to resolve

disputes about the amount of loss for a covered claim and are generally enforceable absent illegality or waiver. The Court explained that, although questions of coverage and liability must be resolved by the court, prohibiting appraisal as an initial matter is justified only if the amount of loss will never be needed. The Court concluded that the parties' dispute here was at least in part about the amount of loss, i.e., whether the insured paid more than was necessary to return the warehouse to its pre-flood state, so preemptive intervention by the courts was improper.

Next, the Court rejected the insured's argument that the insurers' shifting position on the amount of loss meant that the parties had no genuine disagreement on that issue and that the insurers therefore had no right to appraisal. The Court explained that, to the extent the insurers' valuation of the claim had changed over time, the record nevertheless confirmed that the insurers valued the amount of loss as significantly less than the insured did, triggering either party's right to appraisal.

Finally, the Court held that the insurers' alleged bad-faith handling of the claim did not excuse the insured from complying with the appraisal provision. The Court concluded that such conduct did not fall within the recognized exceptions to the enforcement of appraisal provisions, and allowing an insured to avoid appraisal by alleging a dispute over coverage or claims handling would render appraisal clauses largely inoperative.

2. Policies/Coverage

a) *Privilege Underwriters Reciprocal Exch. v. Mankoff*, 733 S.W.3d 1 (Tex. Feb. 13, 2026) [24-0132]

The issue in this case is whether the term "windstorm," when undefined in a homeowners insurance policy, includes a tornado.

The Mankoffs submitted a claim under their homeowners policy after their home was damaged by a tornado. The insurer, PURE, withheld a portion of the claim under the policy's "Windstorm or Hail Deductible." The Mankoffs sued PURE for breach of contract and sought a declaration that the deductible did not apply because a tornado is not a "windstorm" under the policy. On cross-motions for summary judgment, the trial court granted PURE's motion and rendered a take-nothing judgment against the Mankoffs. A divided court of appeals reversed.

The Supreme Court reversed the court of appeals' judgment and reinstated the trial court's summary judgment. The Court held that the term "windstorm," when undefined in a homeowners insurance policy, is not ambiguous and that its ordinary meaning encompasses a tornado. As the damage to the Mankoffs' property was caused by a tornado, which is a type of windstorm, their claim was subject to the policy's "Windstorm or Hail" deductible.

P. INTENTIONAL TORTS

1. Fraud

a) *Maya Walnut LLC v. Ly*, ___ S.W.3d ___, 2026 WL 1854358 (Tex. June 26, 2026) [24-0171]

The issue in this case is whether a commercial tenant's reliance on a landlord's representations during lease renewal negotiations was unjustifiable as a matter of law in light of a red flag.

Maya Walnut LLC spent years negotiating a commercial lease renewal with Walnut Creek Center before negotiations stalled. Maya found another suitable property but did not pursue a lease, instead focusing solely on renewing its lease with Walnut Creek. Meanwhile, Walnut Creek executed an agreement to lease the property to Maya's competitor. Maya heard that the competitor had a "big surprise" coming and suspected it may be related to the Walnut Creek property. In response, Maya continued lease renewal negotiations with Walnut Creek. Walnut Creek engaged in the negotiations without disclosing its lease agreement with Maya's competitor. By the time Maya learned that the property was not available for re-lease, all other potentially suitable locations were unavailable.

Maya sued Walnut Creek for fraud and negligent misrepresentation, among other claims. A jury awarded Maya over $20 million, but the court of appeals reversed and rendered a take-nothing judgment. The court of appeals held that Maya did not justifiably rely on Walnut Creek's representations because Maya failed to reasonably investigate red flags.

The Supreme Court affirmed. The Court held that Maya's suspicion about the competitor's "big surprise" constituted a red flag that necessitated a reasonable investigation, such as asking Walnut Creek if the property remained available for re-lease. This inquiry, the Court explained, would have either uncovered relevant information regarding the property's availability or resulted in misrepresentations. The Court thus concluded that Maya's reliance was unjustifiable as a matter of law because it failed to conduct an investigation.

Chief Justice Blacklock concurred in the judgment and would have held that Maya cannot recover because any misrepresentations Walnut Creek may have made were immaterial to Maya's decision to negotiate solely with Walnut Creek when it knew of other suitable locations.

b) *Roxo Energy Co. v. Baxsto, LLC*, 713 S.W.3d 404 (Tex. May 9, 2025) (per curiam) [23-0564]

This case concerns whether summary judgment was properly granted on fraud claims.

Baxsto as lessee negotiated a mineral interest lease with Roxo. Roxo later purchased Baxsto's mineral rights to the same property. After the sale, Baxsto sued Roxo for fraud. Baxsto claimed Roxo had misled Baxsto into agreeing to an unproductive lease and then selling its mineral interests below market value by misrepresenting (1) Roxo would not "flip" the lease but would instead make significant investments to develop it, (2) the amount of the bonus Roxo would pay Baxsto under the lease relative to other mineral

owners in the area, and (3) Baxsto would pay the bonus before recording the lease. The trial court granted summary judgment against Baxsto on all claims. The court of appeals reversed.

The Supreme Court reversed the court of appeals and reinstated the trial court's judgment. The Court concluded that some of the alleged oral misrepresentations were contradicted by the parties' written agreements. The Court noted the parties were sophisticated and experienced, and could have included in their agreements the alleged oral promises. In these circumstances Baxsto's claims failed on the fraud element of justifiable reliance.

Regarding Roxo's alleged failure to disclose that it had recorded the lease earlier than the agreements permitted, the Court held Roxo had no duty to disclose facts to Baxsto because the parties lacked a confidential or fiduciary relationship. Insofar as Baxsto asserted an affirmative misrepresentation by Roxo regarding when Roxo would record the lease, there was no evidence that, in making this alleged representation, Roxo intended to induce Baxsto to sell its mineral interests as Baxsto claimed.

Q. INTEREST

1. Usury

a) *Am. Pearl Grp., L.L.C. v. Nat'l Payment Sys., L.L.C.*, 715 S.W.3d 383 (Tex. May 23, 2025) [24-0759]

This certified question asks the Supreme Court to construe statutory language governing the computation of interest to determine whether a loan agreement is usurious.

American Pearl Group, L.L.C., John Sarkissian, and Andrei Wirth entered into a loan agreement with National Payment Systems, L.L.C., which included a specified total amount to be repaid over forty-two months of payments and a payment schedule listing each individual payment's allocation towards principal and interest. But the agreement did not list an exact percentage interest rate.

Pearl sued NPS seeking a declaration that the loan agreement and a related option agreement violated Texas usury law because the total amount of interest under the agreement was more than the maximum allowable amount. The federal district court granted NPS's motion to dismiss, utilizing the "spreading" method for calculating interest and determining that, based on that calculation, the total amount of interest was less than the statutorily maximum allowable amount.

The Fifth Circuit reversed the dismissal of Pearl's usury claim relating to the option agreement but, as to the loan agreement, recognized that the "spreading" method derived from two Texas Supreme Court decisions involving distinguishable interest-only loans and that there was a lack of clear guidance for computing the maximum allowable interest for the loan. The Fifth Circuit therefore certified a question to the Supreme Court, asking whether calculating the maximum allowable interest rate "by amortizing or spreading, using the actuarial method" requires courts to base interest calculations on the declining principal balance for each payment period, rather than the total principal amount of the loan proceeds.

The Supreme Court answered in the affirmative and held that when a loan provides for periodic principal payments, the mandate to use the "actuarial method" found in the Texas Finance Code requires courts to calculate the maximum permissible interest based on the declining principal balance for each payment period. The Court emphasized that the Legislature changed the statutory text from requiring the "equal parts" approach to requiring the "actuarial method," a term with a well-established meaning in financial and legal contexts. The Legislature's changing of statutory text is presumed to be deliberate and therefore must be respected.

R. JURISDICTION

1. Mandamus Jurisdiction

a) *Paxton v. Am. Oversight*, 716 S.W.3d 535 (Tex. June 27, 2025) [24-0162]

The issue in this case is whether Section 552.321 of the Government Code gives district courts jurisdiction to issue a writ of mandamus against two constitutional executive officers, the Governor and Attorney General.

Beginning in 2022, American Oversight sent various Public Information Act requests to the Governor's office and the Attorney General's office. Both offices provided some information. Both obtained opinions authorizing withholding of other information. As to other information requested, the offices found no responsive documents. American Oversight filed a petition for writ of mandamus in district court against the Governor and the Attorney General. The Governor and Attorney General filed pleas to the jurisdiction, arguing sovereign immunity was not waived. The district court denied the pleas, and the court of appeals affirmed.

The Supreme Court reversed, holding the district court lacked jurisdiction to issue a writ of mandamus against either officer. Under Section 22.002(c) of the Government Code, "only the supreme court has the authority to issue a writ of mandamus . . . against any of the officers of the executive departments of the government of this state." Section 22.002(a) further provides that even the Supreme Court may not issue such a writ against the Governor. Section 552.321(b) of the Public Information Act provides that "[a] suit filed by a requestor under this section must be filed in a district court for the county in which the main offices of the governmental body are located." The Supreme Court previously held that district courts generally have no jurisdiction over executive officer respondents. Any exception to this rule would require express statutory authorization by the legislature naming district courts as the proper fora. The Court held that Section 552.321(b) does nothing to expressly authorize district courts as the proper fora for mandamus suits against constitutional executive officers.

Justice Young filed a concurring opinion. Noting that the Court's opinion properly did not reach the question whether any court in this state could exercise mandamus jurisdiction over the Governor, he suggested it was unlikely any court may properly do so.

2. Mootness

a) *Muth v. Voe*, ___ S.W.3d ___, 2026 WL 1108685 (Tex. Apr. 24, 2026) (per curiam) [24-0384, 24-0385]

The issue in this case is whether a series of temporary injunction orders should be vacated as moot.

The Department of Family and Protective Services declared that it would investigate reports that a child was receiving certain medical procedures for the purpose of gender transitioning. Four families with a child diagnosed with gender dysphoria, an advocacy organization, and a psychologist sought injunctive relief to prohibit these investigations. The trial court issued three separate temporary injunctions against DFPS and its Commissioner, which the court of appeals affirmed.

The Supreme Court reversed and vacated the temporary injunctions for lack of jurisdiction. The Court held that the claims for injunctive relief by the families were moot either because DFPS had permanently closed its investigation or the family no longer had any minor children subject to investigation. The Court concluded that the advocacy group's claim was likewise moot because the claims of its members in the lawsuit were moot. Finally, the Court held that the psychologist lacked standing because her alleged injuries were speculative.

Chief Justice Blacklock filed a concurring opinion. He would have held that the psychologist had standing to challenge DFPS's actions but that the temporary injunctions were improper on the merits.

b) *Tex. Dep't of Fam. & Protective Servs. v. Grassroots Leadership, Inc.*, 717 S.W.3d 854 (Tex. May 30, 2025) [23-0192]

The issues in this case are whether the plaintiffs' claims are moot and whether, if they are, courts may nonetheless adjudicate them on the ground they raise an issue of considerable public importance.

The case began with a Texas Department of Family and Protective Services rule establishing licensing requirements for family residential centers used to detain immigrant families who had illegally entered the United States. Without a valid state license, the federal government could not detain minors there for more than a brief time. Several mothers detained at facilities licensed under the rule, along with Grassroots Leadership, Inc., challenged the rule as invalid under state law.

The trial court held the rule was invalid and enjoined the department from granting licenses under it. The court of appeals initially reversed, holding that the plaintiffs lacked standing, but this Court reversed. On remand, the court of appeals held the claims were moot because the detainees were no longer at the facilities and the capable-of-repetition-yet-evading-review exception to mootness did not apply. But the court invoked a "public-interest exception" to mootness which allowed it to reach the merits of the case. It then affirmed the trial court's invalidation of the rule.

The Supreme Court reversed the court of appeals' judgment as to jurisdiction. All plaintiffs had been released

from the facilities, and none had demonstrated a reasonable likelihood of being re-detained with minor children, so the court of appeals correctly described the case as moot. For the same reasons, the capable-of-repetition exception did not apply. The Court then held that, under the Texas Constitution's text, structure, and history, a live dispute is essential at all stages of litigation, regardless of the importance of the underlying issues. Thus, there is no such thing as a public-interest exception to mootness in Texas, and the court of appeals erred in relying on that exception to reach the merits. Accordingly, the Court vacated the court of appeals' judgment as to the merits and rendered a judgment of dismissal without prejudice for lack of subject-matter jurisdiction.

3. Personal Jurisdiction

a) *BRP-Rotax GmbH & Co. KG v. Shaik*, 716 S.W.3d 98 (Tex. June 20, 2025) [23-0756]

The issue in this case is whether the trial court had specific personal jurisdiction over Rotax under the stream-of-commerce-plus test.

Sheema Shaik suffered serious injuries in a plane crash in Texas. Rotax is the designer and manufacturer of the airplane's engine. Shaik and her husband sued Rotax in Texas for strict liability, negligence, and gross negligence. Rotax is an Austrian company. An independent Bahamian distributor, Kodiak, purchased the engine at issue in Austria, shipped it to the Bahamas, and then sold it to its sub-distributor in Florida, which in turn sold the engine to the Texas company that installed the engine into the plane that crashed.

Rotax filed a special appearance challenging the trial court's personal jurisdiction over Rotax given its lack of physical presence in or direct connection to Texas. The trial court denied the special appearance, and the court of appeals affirmed. It held that under the stream-of-commerce-plus test, Rotax had sufficient indirect contacts with Texas for Texas courts to exercise specific personal jurisdiction.

The Supreme Court reversed. It reiterated that stream-of-commerce jurisdiction requires a stream, not a dribble, caused by the defendant rather than only by third parties. The engine here came to Texas by the unilateral actions of third parties—not any "stream" engineered, controlled, or manipulated by Rotax. Instead, under a distribution agreement, Rotax's sole relevant distributor, Kodiak, had substantial discretion in marketing and advertising Rotax products and was responsible for warranty claims and establishing repair centers throughout its territory, which spanned nearly the entire Western Hemisphere. No other evidence showed that Rotax purposefully availed itself of the privilege of doing business in Texas. Thus, the Supreme Court rendered judgment dismissing the Shaiks' claims against Rotax for lack of personal jurisdiction.

Justice Busby filed a concurring opinion, urging the U.S Supreme Court to reconsider its current approach to personal jurisdiction, which yields unpredictable and inconsistent outcomes in factually similar cases and is unmoored from the federal Constitution's text and history.

b) *Hyundam Indus. Co. v. Swacina*, 716 S.W.3d 167 (Tex. June 20, 2025) (per curiam) [24-0207]

The issue in this case is whether the trial court had specific personal jurisdiction over a foreign manufacturer for claims based on an allegedly defective product.

Johari Powell was injured when her 2009 Hyundai Elantra stalled in the center lane of traffic and another car rear-ended her. Powell alleges that her Elantra stalled because its fuel pump failed.

Paul Swacina, on behalf of Powell and her minor children, sued multiple defendants for various causes of action, including Hyundam Industrial Company, Ltd., the manufacturer of the Elantra's fuel pump. Hyundam filed a special appearance requesting that the trial court dismiss the case against it for lack of personal jurisdiction. In support, it attached an affidavit by Jinwook Chang, a Hyundam director, detailing the fuel pump's manufacturing and sales processes. Swacina responded with evidence purporting to show that Hyundam was subject to personal jurisdiction in Texas and objected to Chang's affidavit for lack of personal knowledge. The trial court overruled Swacina's objection and denied Hyundam's special appearance. The court of appeals affirmed.

The Supreme Court reversed and dismissed the case against Hyundam for lack of personal jurisdiction. The Court held that the affidavit was sufficiently based on Chang's personal knowledge because Chang detailed his experience at Hyundam, the knowledge he obtained in his roles, and the documents he reviewed to prepare his affidavit. The Court further held there was no evidence Hyundam targeted Texas, so it did not purposefully avail itself of the Texas market. Hyundam designing the fuel pump for North American specifications did not constitute additional conduct targeting Texas. Nor did Swacina's evidence that a replacement fuel pump was purchased in Texas, Hyundam maintained a website in English, and Hyundai Motor Company sold Elantras in the United States show that Hyundam targeted Texas.

4. Service of Process

a) *Huffman Asset Mgmt., LLC v. Colter,* ___ S.W.3d ___, 2026 WL 1500963 (Tex. May 29, 2026) [24-0205]

This residential-lease dispute involves an appeal of a no-answer default judgment based on defective service of process.

The Colters sued Prairie Capital, LLC, and its property manager, Huffman Asset Management, LLC. The Colters attempted substituted service through the Secretary of State, who issued certificates confirming that the process documents were sent to the entities at their designated registered offices for service. The Colters then moved for default judgment, relying on the certificates. The trial court granted the default.

After receiving a notice of default judgment, Prairie and HAM moved for a new trial, arguing that the certificates did not show that the process documents were forwarded to the entities' "most recent address . . . on file" with the Secretary, as required by

statute. The trial court denied the motion for new trial, and the entities appealed. The court of appeals reversed as to a portion of the damages award but otherwise affirmed the judgment, holding that Prairie and HAM were properly served.

The Supreme Court reversed. The Court first noted that while the certificates documented that process was forwarded, they did not establish that the addresses to where process was forwarded were the addresses required by statute. Next, the Court held that the record did not demonstrate strict compliance with the substituted-service requirements. The Court explained that a filing entity may have multiple addresses "on file" with the Secretary and that the plain text of the statute directs to the most recently filed. To that end, the Court concluded that the record in this case reflected that HAM's and Prairie's registered office addresses were not the most recent addresses on file with the Secretary and, accordingly, that process was not forwarded to the statutorily required addresses. The Court therefore held that the trial court abused its discretion in denying the entities' motion for new trial.

Justice Huddle filed a concurring opinion, emphasizing the Court's growing hostility toward default judgments.

5. Standing

a) *Busse v. S. Tex. Indep. Sch. Dist.*, ___ S.W.3d ___, 2026 WL 1279764 (Tex. May 8, 2026) [24-0782]

The issue in this case is whether individual taxpayers and a school district have standing to contest the collection of an ad valorem tax.

South Texas Independent School District was originally formed under a statute permitting the creation of specialized districts to provide services for students with disabilities. Willacy County voters authorized South Texas to levy annual ad valorem taxes on county residents. South Texas later expanded its purpose and began enrolling students without disabilities. Several years later, a group of Willacy County taxpayers and a school district within Willacy County brought suit challenging South Texas's constitutional authority to levy the tax.

South Texas filed a plea to the jurisdiction, which the trial court denied. The court of appeals reversed and rendered judgment for South Texas, holding the taxpayers lacked standing under the taxpayer standing doctrine because their lawsuit would significantly disrupt South Texas's operations and disturb the settled expectations of other taxpayers. The court also held that the school district lacked standing.

The Supreme Court reversed as to the taxpayers. The Court held the court of appeals erred in relying on taxpayer standing doctrine because the individual taxpayers' alleged pocketbook injury established their constitutional standing. But the Court agreed that the school district lacked standing because its alleged injury was speculative and not traceable to South Texas or redressable by a court. The Court remanded the case to the court of appeals to consider South Texas's other jurisdictional arguments.

Justice Young concurred, emphasizing that any determination of a party's standing must be rooted in our Constitution.

b) *In re UMTH Gen. Servs., L.P.*, 725 S.W.3d 424 (Tex. Nov. 14, 2025) [24-0024]

This original proceeding asks whether a corporate trust's shareholders may directly sue a third party based on a contract between the trust and the third party.

United Development Fund IV is a Maryland real-estate investment trust formed by a declaration of trust that designates Maryland as the exclusive forum for derivative actions brought on the Trust's behalf. The Trust's board appointed UMTH to manage its daily operations in an advisory agreement executed by the Trust and UMTH, not the individual shareholders. Relying on a provision in the agreement deeming UMTH "to be in a fiduciary relationship to the Trust and its Shareholders," a shareholder and its subsidiary sued UMTH and affiliates in Dallas County for corporate waste and mismanagement.

UMTH filed a verified plea in abatement, arguing that the shareholders' claims are derivative claims, and thus the shareholders lack standing and the capacity to assert them. After the trial court denied the motion, UMTH unsuccessfully sought mandamus relief in the court of appeals.

The Supreme Court conditionally granted relief, directing the trial court to grant the plea and dismiss the case with prejudice. Although the shareholders have constitutional standing to sue, they lack capacity to bring the claims at issue. The advisory agreement does not provide individual shareholders with a personal cause of action, either directly or as third-party beneficiaries. The shareholders' claims against the advisors are thus derivative claims, owned by the trust. Given the forum selection clause providing that derivative claims on behalf of the corporate trust must be brought in Maryland, the Court held that the advisors lack an adequate remedy by appeal.

c) *State v. City of McAllen*, ___ S.W.3d ___, 2026 WL 1614384 (Tex. June 5, 2026) [24-1060]

This case concerns whether a group of cities properly sued the State of Texas when they challenged the constitutionality of statutes regulating certain fees.

The Legislature enacted two statutes limiting rates that cities could charge telecommunications companies for the use of public property along city streets. Several cities sued the State, alleging the statutory limits on rates violated the Texas Constitution's Gift Clauses. The trial court rendered a declaratory judgment agreeing with the cities in part. The court of appeals essentially agreed with the cities across the board regarding the Gift Clauses.

The Supreme Court dismissed the case for want of jurisdiction because the cities sued the wrong defendant. The Court noted that naming the correct defendant is essential when invoking the courts' jurisdiction because the judicial power is the power to issue judgments redressing injuries traceable to the defendant. The Court

observed that the State is not automatically a proper defendant in a suit challenging the constitutionality of a statute merely because the Legislature enacted it and the cities failed to even attempt to identify the state officer or agency responsible for the injury they attribute to the State. The Court explained that the proper defendant is the party with whom the plaintiff has a concrete, real-world dispute. In this case, the Court concluded, the dispute was over how much a city can charge a telecom company to use a public right of way, a monetary dispute between the city and the company. The Court held that a judgment against the State of Texas declaring the statutorily mandated rates unconstitutional gifts would not require the non-party company to do or refrain from doing anything, so a judgment in this lawsuit would not redress the cities' injury or resolve a real-world dispute—it would merely declare the judiciary's position on a legal question.

6. Subject Matter Jurisdiction

a) *Braxton Mins. III, LLC v. Bauer*, ___ S.W.3d ___, 2026 WL 1354753 (Tex. May 15, 2026) [24-0438]

This appeal concerns whether a Texas court has jurisdiction over a suit seeking to compel defendants to convey mineral rights to properties located in another state.

Texans Bauer and Ashburn formed a company called BM2. Bauer, Ashburn, and EnerQuest formed an Oklahoma company called BM3. The parties agreed that BM3 would acquire mineral interests in Appalachia and that certain mineral rights held by BM2 would be conveyed to BM3. BM3 sued Bauer and BM2 in Texas, claiming that certain deeds purchased by BM3 incorrectly identified the grantee as BM2 instead of BM3. The trial court granted summary judgment for BM3, ordering Bauer and BM2 to perform their contractual obligations, convey the disputed mineral rights and related royalties, and reform the incorrect deeds. The court of appeals reversed, holding that the gist or gravamen of the claim involved disputed ownership of foreign real property, a dispute over which a Texas court lacks jurisdiction.

The Supreme Court reversed. It reasoned that even though a Texas court lacks jurisdiction to render an *in rem* judgment establishing title to real property, the trial court had jurisdiction here because the suit sought an *in personam* judgment adjudicating the parties' rights against each other under an agreement. The Court concluded that a suit binding a defendant to his legal obligation to convey out-of-state property is *in personam* and within a Texas court's jurisdiction. The Court disapproved of caselaw following a rule that turns on whether the gist or gravamen of the claim involves adjudication of title to foreign real estate.

S. MEDICAL LIABILITY

1. Expert Reports

a) *Bush v. Columbia Med. Ctr.*, 714 S.W.3d 536 (Tex. May 23, 2025) [23-0460]

This case concerns the sufficiency of an expert report supporting a health care liability claim against a hospital.

Jared Bush sued Columbia Medical Center and others for medical negligence after his wife, Ireille Williams-Bush, died from an undiagnosed pulmonary embolism. Williams-Bush had presented to the hospital's emergency department with chest pain, shortness of breath, and fainting, but she was never screened for pulmonary embolism. She died a few days after her discharge.

Bush served the hospital with an expert report as required by the TMLA. The expert opined that the hospital failed to have policies that would have required certain tests be run based on Williams-Bush's symptoms, without which her doctors lacked sufficient information to rule out a pulmonary embolism. The hospital asserted that the report was deficient and moved to dismiss. The trial court denied the hospital's motion, but the court of appeals reversed. It held that the expert's opinions on causation were conclusory because the report failed to explain how the hospital's policies could have overridden the doctors' treatment decisions without engaging in prohibited corporate practice of medicine.

The Supreme Court reversed. It held that the expert report adequately explained how and why the hospital's alleged breach—its failure to adopt certain testing policies for patients presenting with particular symptoms—was a cause of the doctors' failure to identify Williams-Bush's condition at a time when it could have been treated. The Court also rejected the court of appeals' conclusion that the report was deficient because it did not affirmatively refute a potential defense: that implementing the policies would run afoul of the prohibition on the corporate practice of medicine. The Court held that, at this preliminary stage, the expert's report need only provide a fair summary of the expert's opinions regarding the essential elements of a plaintiff's claim.

Justice Bland filed a dissenting opinion. She would have held that the report was conclusory as to causation because it failed to identify any conduct by a hospital employee, as opposed to the non-employee treating doctors, that caused the injury.

2. Health Care Liability Claims

a) *Leibman v. Waldroup*, 715 S.W.3d 367 (Tex. June 6, 2025) [23-0317]

In this negligence suit for injuries sustained in a dog attack, the issue is whether the TMLA requires an expert report for the plaintiffs' claim against a doctor who wrote letters stating that the dog owner's service animals helped with her medical disorder.

Dr. Leibman, a gynecologist, provided his patient with letters stating that the symptoms of her generalized anxiety disorder were alleviated by her service dog, Kingston, so that the patient could avoid eviction. The patient put a "Service Animal" vest on Kingston and brought him to a restaurant, where he attacked a toddler. The toddler's parents sued, among others, the patient and Dr. Leibman. Dr. Leibman filed a motion to dismiss for failure to file an expert report, arguing that the claim against him was a health care liability claim. The trial court denied the motion, and the court of appeals affirmed.

The Supreme Court affirmed. In an opinion by Justice Busby, the Court concluded that the plaintiffs had standing to sue Dr. Leibman and the claims were not health care liability claims. The Court emphasized that the plaintiffs did not challenge Dr. Leibman's diagnosis of the patient or his determination that Kingston—who was certified as a service animal by a private company—assisted with his patient's anxiety symptoms. Instead, the plaintiffs faulted Dr. Leibman for failing to independently ascertain Kingston's temperament before he represented that the dog was a service animal. The Court held this claim did not concern a departure from accepted standards of medical care and thus was not subject to dismissal for failure to timely serve an expert report under the Act.

Justice Huddle filed a dissenting opinion. She would have held that the plaintiffs' claim was presumed to be a health care liability claim because it involved facts implicating a physician's conduct while rendering medical care to his patient. The plaintiffs failed to overcome that presumption because the operative facts underlying the plaintiffs' claim were inseparably intertwined with the physician's medical care, and plaintiffs cannot artfully plead their claim to avoid the Act's application.

3. Statute of Limitations

a) *Aldaco v. Wood*, ___ S.W.3d ___, 2026 WL 1838585 (Tex. June 26, 2026) [24-1069]

The issue in this case is whether Aldaco's claims were time-barred by the statute of limitations in the Texas Medical Liability Act.

To schedule an elective double mastectomy, Aldaco needed a letter from a practitioner recommending her for the surgery. She requested the letter from her therapist, Wood, who agreed. Aldaco underwent the surgery and experienced post-surgical complications that required emergency medical care. She sued the providers that made the surgery possible, including Wood. Aldaco claimed that Wood committed negligence and fraud during her therapy and that she departed from the standard of care when signing the letter. Wood sought summary judgment under the TMLA's two-year statute of limitations, and the trial court granted their motion. The court of appeals affirmed.

The Supreme Court reversed. In an opinion by Justice Sullivan, the Court held that Aldaco's claims were timely under the TMLA. The Court noted that the statute of limitations lists several potential triggering events, so Aldaco's claims were timely if they were filed within two years of any of those options. One of the triggering events is the completion of treatment, and the Court concluded that Aldaco's care was "completed" when Wood terminated her psychotherapy after she failed to pay a no-show fee. The Court held that Aldaco's claims were timely because she gave pre-suit notice to Wood within two years of the completion of treatment.

Justice Sullivan, writing for a four-justice plurality, would have also held that Aldaco's claims were timely under another triggering event: "the occurrence of the breach or tort." Contrary to the court of appeals' holding that Aldaco's receipt of Wood's letter

constituted "the occurrence of the . . . tort," he would hold that the signing of the letter was the *act* that gave rise to the claim, not the tort. He explained that, had Aldaco sued after receiving Wood's letter but before undergoing the surgery, her claims of negligence and fraud would have failed as a matter of law because a tort had not yet occurred. He would have held that the surgery is what injured Aldaco and so marked "the occurrence of the . . . tort," triggering the statute of limitations.

Justice Young concurred, noting that the end of the counselor–patient relationship, not the surgery, was the critical moment for limitations purposes. He also emphasized that any changes to the statute should come from the Legislature rather than the judiciary.

T. MUNICIPAL LAW

1. Authority

a) *River Creek Dev. Corp. v. Preston Hollow Cap., LLC*, ___ S.W.3d ___, 2026 WL 1699928 (Tex. June 12, 2026) [24-1070]

This case addresses whether certain public financing transactions are void because a local government corporation failed to submit the agreements for the Attorney General's review or violated the Public Improvement District Assessment Act.

The City of Hutto created River Creek Development Corporation to finance improvements to a Public Improvement District around its city hall. As part of the multi-step financing transaction, River Creek borrowed $17.4 million from an out-of-state conduit bond issuer under a loan agreement and promissory note, used the funds to purchase the improvements, and sold the improvements to the City under an installment sales contract. The Transportation Code says that a local government corporation "shall submit" such a note and its supporting contracts to the Attorney General for examination. River Creek did not do so, but the transaction went forward.

After spending most of the money, the City and River Creek sued Preston Hollow, the current bondholder, arguing that the transaction was void because River Creek did not submit the documents to the Attorney General. They also argued that the transaction violated the PID Act's requirement that certain bonds be issued by an entity of the State of Texas. Preston Hollow brought counterclaims, seeking declarations that the documents were enforceable and did not have to be submitted to the Attorney General. The trial court granted summary judgment in favor of Preston Hollow, and the court of appeals affirmed.

The Supreme Court affirmed. In an opinion by Justice Busby, the Court concluded that although the Transportation Code required River Creek to submit the promissory note and its supporting contracts to the Attorney General, its failure to do so did not render the transaction void. The Court also held that the installment-sale transaction complied with the PID Act, so its Texas-issuer requirement did not apply.

Justice Hawkins concurred in the judgment, observing that one necessary consequence of the failure to submit agreements to the Attorney

General may be that they are presumptively unlawful and emphasizing that the Court's interpretation of the PID act recognizes a loophole in the Texas-issuer requirement.

2. Zoning

a) *PDT Holdings, Inc. v. City of Dallas*, 712 S.W.3d 597 (Tex. May 2, 2025) [23-0842]

The issue in this case is whether the trial court abused its discretion in estopping the City of Dallas from enforcing a height-related ordinance against the builder of a noncompliant structure.

After city officials advised PDT that the only height restriction applicable to its property limited a structure to 36 feet, PDT submitted a plan seeking to construct a nearly 36-foot structure. The City approved the plan and issued a permit, after which PDT began construction. While construction was ongoing, a city inspector determined that a portion of the structure exceeded 36 feet and issued a stop-work order. Once PDT resubmitted an amended construction plan, which the City approved, construction resumed. Several months later, when the structure was nearly complete, the City issued another stop-work order, citing a violation of a different height ordinance restricting the structure's height to 26 feet—10 feet less than the height shown on the approved plans and issued permits. PDT applied for a variance, but it was denied.

PDT then sued, seeking to estop the City from enforcing its height-related ordinance. The trial court ruled for PDT following a bench trial, but the court of appeals reversed. The court held that justice did not require equitable estoppel against the City.

The Supreme Court reinstated the trial court's judgment. The Court concluded that sufficient evidence supported the trial court's findings on each challenged element of equitable estoppel. Noting that estoppel against a city is only appropriate "in exceptional cases where the circumstances clearly demand its application to prevent manifest injustice," the Court concluded that justice required estoppel because the City had made an affirmative misrepresentation, and other circumstances were similar to prior cases where estoppel applied against the government. Next, the Court concluded that applying estoppel would not "interfere" with the City's performance of a "governmental function" because it could still enforce the restriction in other cases.

U. NEGLIGENCE

1. Causation

a) *Tenaris Bay City Inc. v. Ellisor*, 718 S.W.3d 193 (Tex. May 23, 2025) [23-0808]

This case concerns whether the plaintiffs established the actual causation element of their negligence claims.

Plaintiffs were thirty homeowners in Matagorda County. Their homes flooded during Hurricane Harvey. They sued Tenaris, a pipe manufacturer who operated a fabrication plant in Bay City. Tenaris built its facility on land previously used as a sod farm. To prevent flooding, Tenaris hired Fluor Enterprises to design and build a drainage system on Tenaris's property. The system included detention ponds and a berm to minimize flooding of other

properties.

Plaintiffs' expert, an engineer, testified that the design of the drainage system was flawed. Plaintiffs also offered evidence that the drainage system was not built to design specifications and had not been properly maintained. The jury found for plaintiffs on theories of negligence, negligence per se, and negligent nuisance. The trial court rendered a money judgment for plaintiffs. The court of appeals affirmed.

The Supreme Court reversed and rendered judgment for Tenaris. The Court held that there was legally insufficient evidence for but-for causation for all of plaintiffs' negligence theories. Plaintiffs' expert conceded that he had not determined whether the Tenaris facility had caused plaintiffs' individual homes to flood. He testified that he could have made this determination by conducting a multi-step analysis that traced runoff from Tenaris's property to each plaintiff's property, but that he had not done so. The Court further held that expert testimony was required to prove causation in this case, and that there was no applicable exception to the ordinary requirement under Texas law that the plaintiff prove but-for causation in a negligence case.

b) *Werner Enters., Inc. v. Blake*, 719 S.W.3d 525 (Tex. June 27, 2025) [23-0493]

This case concerns whether plaintiffs established the substantial-factor element of their negligence claims.

Blake and her three children were in a pickup driven in icy conditions by Trey Salinas, traveling eastbound on I-20. Trainee driver Ali was driving westbound in an 18-wheeler owned by Werner Enterprises. Salinas lost control and crossed the median, into the path of the 18-wheeler. One Blake child was killed, and the other family members were injured.

The Blakes sued Werner and Ali for negligence. They alleged Werner was negligent in training and supervising Ali and in sending Ali, an inexperienced trainee driver, into winter weather without access to important weather updates. Expert testimony asserted Ali was driving too fast given the icy conditions, or should not have been driving at all. The jury found both defendants negligent and assigned 70% of responsibility to Werner acting through employees other than Ali, 14% to Ali, and 16% to Salinas. The trial court rendered judgment against both defendants. The court of appeals affirmed.

The Supreme Court reversed and rendered judgment. It held that, to establish negligence, the proximate cause element requires proof of both but-for causation and substantial-factor causation. Evidence of substantial-factor causation was legally insufficient. The sole substantial factor explaining why the accident happened was Salinas losing control of his pickup and crossing in front of the 18-wheeler. Ali's negligence if any was too attenuated to constitute a substantial factor. There were no viable liability theories against Werner that were independent of Ali's responsibility for the accident, so Werner and Ali were entitled to rendition of judgment.

The defendants asked the Court to adopt the "Admission Rule," under which a defendant who admits that an employee was acting in the course and scope of employment need not also defend against other derivative theories of negligence. The Court held it need not consider this argument. Justice Young agreed, but in a concurrence noted his inclination to adopt the Admission Rule in a future case.

Justice Bland dissented in part. She concluded the jury charge was erroneous, and the jury was misled into placing disproportionate responsibility on Ali and Werner. But there was evidence that Ali bore some responsibility for the Blakes' injuries. The dissent would have reversed and remanded for a new trial.

2. Duty

a) *In re Home Depot U.S.A., Inc.*, ___ S.W.3d ___, 2026 WL 1354748 (Tex. May 15, 2026) [25-0317]

The issue in this original proceeding is whether a motor carrier's customer owed a duty of care to a motorist killed in a collision with the carrier's tractor-trailer.

Werner Enterprises is a federally regulated nationwide commercial carrier. A Werner truck was hauling Home Depot's freight when the driver allegedly ran a red light and fatally struck a motorcyclist. In a wrongful-death and survival action, the decedent's parents and estate alleged that Home Depot negligently selected Werner to transport its goods. Home Depot filed a Rule 91a motion to dismiss, asserting that the plaintiffs' negligence claims fail as a matter of law because a mere shipper of goods owes no duty to third-party motorists under the pleaded facts. The trial court denied the motion, and the court of appeals summarily denied mandamus relief.

The Supreme Court conditionally granted mandamus relief directing the dismissal of the plaintiffs' claims against Home Depot. The Court held that Texas law generally imposes no duty on a passive shipper of goods to prevent the negligence of an independent, federally regulated motor carrier operating on public roadways. In so holding, the Court distinguished precedent recognizing a shipper's duty of care when the shipper has engaged in affirmative acts that create a danger on a public road. No such facts were alleged here; as pleaded, Home Depot's goods were onboard but uninvolved in the accident.

b) *Massage Heights Franchising, LLC v. Hagman*, 712 S.W.3d 615 (Tex. May 2, 2025) (per curiam) [23-0996]

The issue in this case is whether a franchisor can be liable for injuries caused by a franchisee's employee.

Petitioner Massage Heights, a franchisor, entered into a Franchise Agreement with MH Alden Bridge, designating MH Alden Bridge as an independent contractor with sole responsibility for employment decisions. MH Alden Bridge hired Mario Rubio, a licensed massage therapist, despite his criminal background. Rubio sexually assaulted respondent Danette Hagman, a client at MH Alden Bridge. Hagman sued Massage Heights, MH Alden Bridge, and other parties, alleging negligence, negligent undertaking, and

gross negligence. The jury found all defendants negligent, attributed 15% responsibility to Massage Heights, and awarded Hagman both actual and exemplary damages. The court of appeals reversed the exemplary damages award but upheld the trial court's finding that Massage Heights was negligent for not providing a list of disqualifying criminal offenses to its franchisees, which allowed MH Alden Bridge to hire Rubio.

The Supreme Court reversed. It concluded that Massage Heights did not owe Hagman a duty of care because Massage Heights lacked control over Rubio's hiring. Nothing in the Franchise Agreement gave Massage Heights contractual control, and Massage Heights' actions failed to amount to actual control over hiring. The Court also held that Massage Heights was not liable for Hagman's injuries because it franchised with MH Alden Bridge, as the proximate cause of Hagman's injuries was MH Alden Bridge's hiring of Rubio, not the franchising relationship. Finally, the Court held that Hagman lacked legally sufficient evidence to support the jury's finding that Massage Heights negligently performed an undertaking that proximately caused Hagman's injury.

c) *Seward v. Santander*, 713 S.W.3d 341 (Tex. May 9, 2025) [23-0704]

In this wrongful-death, survival, and personal-injury action, the central issues are (1) whether an off-duty police officer was acting within the scope of his governmental employment and (2) whether the Court should adopt a common-law rule restricting the duties owed to responding public-safety officers.

Officer Seward was working as a contract security guard at Home Depot. Seward frisked a shoplifting suspect, called in a warrant check, received a positive hit, and requested backup. Two officers responded and monitored the suspect while Seward confirmed the warrant. During that time, the suspect drew a concealed gun and shot the officers, killing one and injuring the other.

The officers sued Seward and Home Depot for negligence. Finding that Seward's conduct was within the scope of his police-officer employment, the trial court dismissed the suit against him under the Tort Claims Act. The court then granted summary judgment in Home Depot's favor because, among other grounds, there was no evidence it breached any duties owed to the responding officers.

A divided court of appeals disagreed. The court concluded that dismissal and summary judgment were improper because a jury could find that Seward was assisting his private employer and not acting as a police officer and that Home Depot had violated at least a duty to warn the officers that the suspect had not been adequately searched.

The Supreme Court reversed and reinstated the trial court's judgment. The Court held: (1) Seward was acting within the scope of his public employment because he was responding to a reasonable suspicion that a person in his presence was committing theft; (2) public policy supports adopting the public-safety officer's rule, which restricts the duties owed to

officers who are injured by the alleged negligence that necessitated their response; and (3) there was no evidence Home Depot violated any remaining duties, including a duty to warn the responding officers of hidden, dangerous conditions.

Justice Busby concurred, inviting parties in future cases to raise the issue of when a private employer may be vicariously liable for torts committed by an off-duty police officer whose actions are also within the scope of his public employment.

3. Premises Liability

a) *H-E-B, LP v. Peterson*, 732 S.W.3d 541 (Tex. Apr. 10, 2026) [24-0310]

At issue in this slip-and-fall case is whether evidence of earlier water leaks in a grocery store created a fact question as to whether the store owner had constructive knowledge of a puddle on the floor.

Marissa Peterson slipped on a clear liquid in the toy aisle of an HEB store about two hours after it rained. She sued HEB for premises liability. HEB moved for summary judgment, arguing that no evidence demonstrated it had actual or constructive knowledge of the puddle before Peterson's fall. In response, Peterson relied on evidence of numerous roof leaks throughout the store in the year before her fall. She also presented evidence that she saw water dripping from a ceiling rafter after she fell and that no HEB employees had walked down the toy aisle in the two hours before her fall despite the store's heightened inspection protocol after rainstorms. The trial court granted summary judgment for HEB, but the court of appeals reversed.

The Supreme Court reversed the court of appeals' judgment and reinstated the trial court's summary judgment. The Court held that evidence of earlier roof leaks in other parts of the store was not probative of HEB's constructive knowledge of the toy aisle puddle because the leaks occurred outside the vicinity of the puddle and were not temporally related to the time and place of Peterson's injury. The Court further held that HEB was entitled to summary judgment because no other evidence, including the expert testimony the court of appeals found admissible, showed the duration of the puddle's existence before Peterson's fall. The Court concluded that without temporal evidence indicating that the dangerous condition existed long enough for a reasonable premises owner to have discovered it, HEB could not be charged with constructive knowledge.

b) *JMI Contractors, LLC v. Medellin*, ___ S.W.3d ___, 2026 WL 1838578 (Tex. June 26, 2026) [24-0846]

At issue in this case is whether an independent contractor bringing a premises liability claim can avail himself of the necessary-use exception to the general rule that there is no duty to make safe open and obvious dangers.

Medellin was working as an independent contractor on an apartment roof when he fell backwards off the unprotected edge and sustained significant injuries. Medellin sued the general contractor, JMI, alleging theories of both general negligence and premises liability. Medellin argued that the unprotected roof's edge presented an

unreasonably dangerous condition on the premises.

The jury returned a verdict for Medellin. The trial court rendered judgment on the jury's verdict, and the court of appeals affirmed.

The Supreme Court reversed. In an opinion by Justice Hawkins, the Court held that independent contractors cannot make use of the necessary-use exception to the general rule that there is no duty to make safe open and obvious dangers. The Court explained that independent contractors are uniquely positioned to avoid obvious premises defects—unlike typical invitees, they have specialized skills and are often hired for projects that require that expertise. The Court further noted that independent contractors are expected to use that expertise, take account of any obvious premises defects, and make their own judgment calls about what work they perform, the safest way to conduct their work, and what equipment to use in doing the work.

The Court also held that Medellin's general negligence claim failed because the gravamen of his complaint sounded in a theory of nonfeasance as opposed to malfeasance. The Court concluded that there was nothing tying the general contractor to specific injury-causing activity and that Medellin failed to establish that JMI fully controlled his safety and thereby increased the danger.

Justice Busby concurred, explaining his view of additional duties that premises owners or occupiers may owe when they retain control over their independent contractors.

4. Public Utilities

a) *In re Oncor Elec. Delivery Co.*, 716 S.W.3d 525 (Tex. June 27, 2025) [24-0424]

The issue in this case is whether the trial court should have dismissed the plaintiffs' intentional nuisance and gross negligence claims against transmission and distribution utilities for alleged misconduct related to an extreme winter storm.

In 2021, Winter Storm Uri hit Texas, causing massive electricity demand. To preserve the grid, the Electric Reliability Council of Texas ordered the Utilities to cut electricity to some customers. As a result, there were widespread power outages.

Thousands of customers filed hundreds of lawsuits against participants in the Texas electricity market, including the Utilities. The cases were transferred to a multidistrict litigation court, which designated several bellwether cases for initial motions. The Utilities moved to dismiss under Rule 91a. The trial court dismissed some claims but refused to dismiss the negligence, gross negligence, and nuisance claims. The court of appeals granted partial mandamus relief, ordering dismissal of the negligence and strict-liability nuisance claims but allowing the gross negligence and intentional nuisance claims to proceed. The Utilities petitioned the Supreme Court for mandamus relief, arguing the remaining claims must be dismissed.

The Supreme Court conditionally granted relief. It held that to be liable for intentional nuisance, a defendant must have "created" or affirmatively "maintained" a nuisance. Because the Utilities were not a source of

the nuisance—here, freezing temperatures—the intentional nuisance claims had no basis in law.

The Court also held that the plaintiffs did not adequately plead the "conscious indifference" element of gross negligence. The plaintiffs failed to plead facts showing that the Utilities' acts or omissions in their initial response to ERCOT's orders to cut power were consciously indifferent. As to acts and omissions before and after those initial decisions, the plaintiffs did not adequately plead that the Utilities could have acted differently despite legal requirements restricting them.

Accordingly, the Court ordered the trial court to dismiss the nuisance claims with prejudice and allow the plaintiffs an opportunity to replead the gross negligence claims.

5. Vicarious Liability

a) *Renaissance Med. Found. v. Lugo*, 719 S.W.3d 505 (Tex. May 23, 2025) [23-0607]

The issue in this case is whether a nonprofit health organization certified under Section 162.001 of the Occupations Code may be held vicariously liable for the negligence of its employee–physician.

Renaissance Medical Foundation, a certified nonprofit health organization, entered into a contract for employment with Dr. Michael Burke, a neurosurgeon. At a hospital owned and operated by Renaissance, Dr. Burke performed brain surgery on I.B., Rebecca Lugo's then-minor daughter. The procedure left I.B. with permanent neurological damage.

Lugo sued Dr. Burke and Renaissance, alleging negligence by Dr. Burke and that Renaissance was vicariously liable as his employer. Renaissance moved for summary judgment, arguing it could not—and did not—exercise the requisite amount of control over Dr. Burke's medical practice because doing so would violate Texas law. The trial court denied the motion, concluding the employment agreement granted Renaissance sufficient control over Dr. Burke to trigger vicarious liability even though he retained the right to exercise independent medical judgment. Renaissance filed a permissive interlocutory appeal, arguing the unique statutory scheme governing nonprofit health organizations deprives it of any right to control its employed physicians, thus precluding vicarious liability. The court of appeals affirmed, holding Renaissance had a right to control Dr. Burke sufficient to trigger vicarious liability based on traditional common-law factors.

The Supreme Court also affirmed. In an opinion by Justice Busby, the Court held that nonprofit health organizations retain a narrow right to control their employee–physicians that may support vicarious liability in certain cases. Nonprofit health organizations are charged with adopting and enforcing policies related to medical care that ensure its employee–physicians retain independent medical judgment. Because Renaissance failed to conclusively prove it could not exercise control over Dr. Burke without violating his independent medical judgment, summary judgment was correctly denied.

Justice Bland concurred, contending direct liability claims connected to organizational policies should

not be viable when physician negligence causes the injury. And, in her view, the summary judgment burden should shift once a qualifying organization invokes the statute and shows the pleadings allege an injury attributable to physician negligence.

V. OIL AND GAS

1. Deed Construction

a) *Clifton v. Johnson*, 733 S.W.3d 16 (Tex. Mar. 13, 2026) [23-0671]

The issues in this case are how to interpret a double fraction in an oil-and-gas deed and whether the presumed-grant doctrine applies.

A deed executed in 1951 granted "an undivided one-one hundred and twenty-eighth (1/128) interest" in oil and other minerals. It also granted "a 1/128 (1/16 of the usual 1/8 royalty) part of all of the oil, gas and other minerals taken and saved" under future leases. From 1951 to 2020, the original grantors and grantees, along with their successors-in-interest, agreed that the deed had conveyed a fixed 1/128 royalty. In 2020, Johnson sued the Cliftons, arguing that the deed actually provided for a floating 1/16 nonparticipatory royalty interest. The parties filed cross-motions for summary judgment. The trial court denied Johnson's motion for summary judgment and granted the Cliftons' motion.

While Johnson's appeal was pending, the Supreme Court decided *Van Dyke v. Navigator Group*, 668 S.W.3d 353 (Tex. 2023). *Van Dyke* addressed both double fractions and the presumed-grant doctrine. In Johnson's appeal, the court of appeals held that Johnson is entitled to a floating 1/16 royalty, rather than the fixed 1/128 royalty that had previously been received. The court declined to consider the Cliftons' arguments regarding the presumed-grant doctrine because the Cliftons had not raised that issue in the trial court.

The Supreme Court reversed. It held that the *Van Dyke* presumption applies but was rebutted. The Court concluded the deed's plain language showed that the parties used the fraction "1/8" in its ordinary arithmetical sense, not as a term of art, so the trial court was correct that Johnson is entitled only to a fixed 1/128 royalty. The Court reiterated its explanation from *Van Dyke* that the presumed-grant doctrine is akin to adverse possession and is not a tool for deed interpretation. Because, as in *Van Dyke*, applying the doctrine here could only lead to the same result as accurately construing the deed, the Court held it did not have to formally resolve the presumed-grant dispute to reinstate the trial court's summary judgment in the Cliftons' favor.

b) *Myers-Woodward, LLC v. Underground Servs. Markham, LLC*, 716 S.W.3d 461 (Tex. May 16, 2025) [22-0878]

The parties dispute who has the right to use underground salt caverns.

Myers owned the surface estate to the acreage in issue. Original and correction deeds granted the owner of the mineral estate ownership of oil, gas and other minerals. Myers retained a 1/8th royalty. By deed USM acquired a portion of the mineral estate as to salt.

USM began producing salt and claimed ownership of the underground

cavern space created by its mining. The parties' disagreements as to ownership of the caverns and the royalty due led to this suit. The district court ruled that USM owned the caverns but could use the caverns for salt production only, and that Myers was owed a royalty of 1/8th of the market value of the salt. The court of appeals held that the district court had properly calculated the royalty, but that Myers owned the empty underground spaces.

The Supreme Court held that USM owned the salt under the tract, but that subsurface voids encased in salt and created by the production of salt belonged to Myers. USM, as the owner of the dominant mineral estate, had a qualified right to use the salt caverns, limited to uses that are reasonably necessary to recover USM's minerals. But USM could not use the caverns for storage of hydrocarbons or off-site minerals.

The Court then held that the deeds entitled Meyers to in-kind possession of 1/8th of the salt produced or 1/8th of the net proceeds from the actual sale of the salt produced. The Court therefore affirmed the court of appeals as to ownership of the space within the salt caverns, reversed as to the amount of the royalty owed to Myers, and remanded the case to the district court for further proceedings.

2. Leases

a) *Cactus Water Servs., LLC v. COG Operating, LLC*, 718 S.W.3d 214 (Tex. June 27, 2025) [23-0676]

This case involves a dispute about ownership of "produced water" from oil-and-gas operations. The issue is whether this liquid-waste byproduct was included in the hydrocarbon conveyance to the mineral lessee or whether the surface estate retained ownership because subsurface water was not expressly severed from the surface estate.

COG conducts hydraulic fracturing operations under mineral leases with two surface owners. Fracking results in a hazardous byproduct known as produced water. Oil-and-gas operations cannot continue without expeditious and proper disposal of produced water. As the well operator, COG is legally responsible for proper handling and disposal of this substance.

Years after executing the mineral leases with COG, the surface owners executed Produced Water Lease Agreements with Cactus. These leases purported to convey to Cactus the produced water from oil-and-gas operations on the land. COG sued for a declaration that it owned exclusive rights to the produced water from its operations under the mineral leases. Cactus counterclaimed, asserting a right of ownership under the produced-water leases. On cross-motions for summary judgment, the trial court declared that COG owned the produced water that was part of COG's hydrocarbon production stream. The court of appeals affirmed.

The Supreme Court affirmed, holding that a mineral conveyance using typical language to convey oil and gas rights, though not expressly addressing produced water, includes that substance as part of the conveyance. Absent an express reservation or exception, the surface estate does not retain ownership of constituent water

incidentally and necessarily produced with hydrocarbons. As there was no such exception or reservation, COG had the right to possession, custody, control, and disposition of the constituent water in the liquid waste from its hydrocarbon production.

In a concurring opinion, Justice Busby observed that the default rule may be altered by a conveyance's terms and that other questions remain open but were neither presented nor determined.

3. Lease Termination

a) *Cromwell v. Anadarko E&P Onshore, LLC*, 716 S.W.3d 515 (Tex. May 23, 2025) [23-0927]

This case involves the interpretation of two oil-and-gas leases' habendum clauses.

Cromwell and Anadarko are oil-and-gas co-tenants, both owning fractional shares of the working interest on the same acreage in Loving County. The habendum clauses of Cromwell's leases maintained his interests for "as long thereafter as" oil, gas or other minerals are produced from the land. Cromwell submitted his leases to Anadarko, the operating tenant, and requested to participate in its production, but Anadarko never responded. After one well reached payout, Anadarko sent Cromwell monthly "Joint Interest Invoices" that allocated production revenues and expenses to Cromwell. Years after the expiration of the leases' primary terms, Anadarko informed Cromwell that it believed his leases terminated at the end of their primary terms because he failed to enter a joint operating agreement.

Cromwell sued Anadarko for declaratory relief, trespass to try title, and other causes of action. Both sides moved for summary judgment. After concluding the leases had terminated, the trial court granted Anadarko's motion and denied Cromwell's. The court of appeals affirmed, holding that Cromwell's leases terminated because he did not cause the production of oil or gas on the land.

The Supreme Court reversed. It held that the plain language of the two habendum clauses did not require Cromwell to personally produce to maintain his interests. Because at all relevant times production in commercial paying quantities occurred on the land, Cromwell's leases had not terminated. The Court remanded the case to the trial court to address the parties' remaining arguments.

4. Royalty Payments

a) *Fasken Oil & Ranch, Ltd. v. Puig*, 733 S.W.3d 25 (Tex. Apr. 10, 2026) [24-1033]

This case concerns whether cost-free language in an oil and gas royalty agreement includes postproduction costs incurred to prepare the minerals for sale downstream from the well.

The Puigs' predecessor reserved "an undivided one-sixteenth (1/16) of all . . . minerals . . . in, to and under or that may be produced from the above described acreage, to be paid or delivered to Grantor . . . free of cost forever." Fasken operated wells on the relevant leaseholds. In paying the Puigs' royalty, Fasken historically deducted postproduction costs to calculate the market value of raw gas produced at the

wellhead, and in turn, the royalty owed.

In 2021, the Puigs sued Fasken for breach of the royalty agreement. Relying on the deed's "free of cost forever" language, the Puigs sought a declaration that their royalty is free of both production and postproduction costs, meaning it must be calculated based on a downstream sales price. Fasken sought a declaration that the royalty bears postproduction costs because it is based on raw minerals "produced from the above described acreage"; that is, market value at the wellhead. On cross-motions, the trial court granted partial summary judgment for the Puigs but certified an interlocutory appeal on whether the deed's "free of cost forever" language applies to postproduction costs. The court of appeals affirmed.

The Supreme Court reversed. The Court held that the agreement gave the Puigs a non-participating royalty in raw minerals produced at the well that bears its usual share of postproduction costs. The Court concluded that in the absence of language calling for a royalty on the sales price for enhanced minerals downstream, the deed's "produced from the above-described acreage" language reserved a royalty based on the market value of unprocessed minerals at the point of production—the wellhead. The Court explained that the "free of cost forever" language refers to production costs; it does not relieve the royalty of postproduction costs incurred to transform the raw minerals into a downstream sales product.

W. PROBATE: WILLS, TRUSTS, ESTATES, AND GUARDIANSHIPS

1. Executors

a) *Suday v. Suday*, 716 S.W.3d 586 (Tex. June 27, 2025) (per curiam) [24-1009]

At issue in this case is whether an executor may represent the estate pro se if she is the sole beneficiary.

Maryvel Suday is the sole beneficiary and independent executor of her mother's estate. She engaged in substantial litigation seeking to challenge her parents' divorce decree and property distribution. While her appeal was pending in the court of appeals, Maryvel informed her attorney that she no longer desired his services, and he withdrew. The court of appeals notified Maryvel that she could not represent her mother's estate pro se and extended her briefing deadline to allow her time to secure new counsel. Maryvel did not obtain counsel for the estate, so the court of appeals dismissed the appeal for want of prosecution.

The Supreme Court reversed. It assumed without deciding the correctness of the general rule, adopted by several Texas courts of appeals, that an estate's executor may not represent the estate pro se. Even so, the Court explained, the rule would not apply in the narrow circumstance here, in which the executor is also the sole beneficiary. The logic underlying the general prohibition is that an executor serves in a representative capacity, thereby requiring her to represent the rights of third parties. But when there are no other parties with an interest in the estate, the executor represents only her

own rights. In this situation, the right to self-representation outweighs any competing concerns.

Accordingly, the Court reversed the court of appeals' judgment and remanded the case to the court of appeals to address the remaining issues on the merits.

2. Will Contests

a) *In re Est. of Wheatfall*, 729 S.W.3d 788 (Tex. Feb. 13, 2026) (per curiam) [24-0778]

The issue in this case is whether the trial court's order admitting a will to probate is final and appealable.

Wheatfall filed an application for letters of administration of his deceased father's estate, and DeBose, the decedent's granddaughter, filed a competing application to probate a will allegedly executed by the decedent. On September 5, 2019, after the trial court held a hearing on the applications but before the court ruled on them, Wheatfall filed a will contest in which he asserted additional objections to the probate of the will. The trial court then issued an order admitting the will to probate and overruling all objections to the probate of the will asserted through September 4, 2019.

Over two years later, at a status conference regarding Wheatfall's will contest, DeBose argued that the trial court's order admitting the will to probate had disposed of the contest and constituted a final order that Wheatfall failed to timely appeal. The trial court agreed with DeBose and dismissed the contest. The court of appeals dismissed Wheatfall's appeal for lack of jurisdiction. It held that the appeal was untimely because the trial court's order admitting the will to probate had resolved all issues raised in the will contest, making the order final and appealable.

The Supreme Court reversed. The Court first recognized that an order is final in the probate context for purposes of appeal if it actually disposes of every party and issue in a particular phase of the proceedings. The Court then held that the order admitting the will to probate did not do so because (1) the order expressly did not resolve any objections asserted after September 4, 2019, and thus did not express an unequivocal intent to dispose of all issues related to the will's validity; and (2) the record confirmed that Wheatfall asserted objections after September 4, which the order left pending. The Court remanded to the court of appeals to address the merits of Wheatfall's appeal of the dismissal order.

X. PROCEDURE—APPELLATE

1. Interlocutory Appeal Jurisdiction

a) *Paxton v. City of Austin*, ___ S.W.3d ___, 2026 WL 1445577 (Tex. May 22, 2026) [24-1078]

This case concerns whether the State can bring an interlocutory appeal of a trial court's refusal to rule on a plea to the jurisdiction.

The City of Austin approved a light rail plan and formed Austin Transit Partnership to implement the plan. The City and ATP filed a petition under the Expedited Declaratory Judgment Act seeking declarations that they could assess taxes and issue bonds for the project. The Attorney General, under its statutory right to participate

in EDJA cases, filed a plea to the jurisdiction arguing that neither the City nor ATP qualifies as an "issuer" under the EDJA. ATP urged the trial court to take the jurisdictional plea under advisement because ruling on it could trigger an interlocutory appeal and automatic stay under the Civil Practice and Remedies Code. The court took the plea under advisement. It called the case to trial, stating that it was not explicitly or implicitly ruling on the plea. The Attorney General noticed an interlocutory appeal, arguing that the trial court had implicitly denied the jurisdictional plea by calling the case to trial. The court of appeals dismissed the appeal, concluding there was no appealable order.

The Supreme Court held that the trial court had not made an order that "grants or denies a plea to the jurisdiction" and thus there was no basis for an interlocutory appeal under the statute. However, the Court recognized that it could treat the petition for review as one for mandamus relief. The Court held that the trial court abused its discretion by refusing to rule on the State's jurisdictional argument because a trial court is obliged to address its jurisdiction before proceeding to the merits. The Court concluded that the trial court's refusal to rule on the jurisdictional plea deprived the State of its procedural right to an interlocutory appeal. The Court directed the trial court to rule on the plea to the jurisdiction.

2. Jurisdiction

a) *Baumgardner v. Brazos River Auth.*, 714 S.W.3d 597 (Tex. June 27, 2025) (per curiam) [24-9101]

The issue in this motion to transfer is whether appeals by or against a river authority fall within the exclusive intermediate appellate jurisdiction of the Fifteenth Court of Appeals.

A district court in McLennan County granted a permanent injunction in favor of Brazos River Authority against Sandom Baumgardner. On appeal, the Tenth Court of Appeals determined that the appeal was within the exclusive intermediate appellate jurisdiction of the newly created Fifteenth Court of Appeals, and the appeal was thereafter transferred to the Fifteenth Court.

Brazos River Authority moved to re-transfer the appeal to the Tenth Court. The Fifteenth Court recommended that the case be re-transferred, while the Tenth Court recommended that the case remain at the Fifteenth Court. The transfer motion, along with the recommendations of the Tenth and Fifteenth Courts, were submitted to the Supreme Court for consideration.

The Supreme Court granted the motion to re-transfer the appeal to the Tenth Court. The Court held that, for purposes of Section 22.220(d)(1) of the Texas Government Code, river authorities are not agencies "in the executive branch of the state government," and therefore matters by or against them do not fall within the exclusive intermediate appellate jurisdiction of the Fifteenth Court. The Court explained that constitutional and statutory provisions governing river authorities are

separate from those generally governing agencies within the executive branch, and the Court has generally described river authorities as political subdivisions in other contexts. The Court also recognized that Brazos River Authority's geographically limited jurisdiction and potential taxing powers favor treating the Authority as a political subdivision, rather than an agency in the executive branch of the state government, for purposes of the jurisdictional statute.

3. Permissive Interlocutory Appeals

a) *Boren Descendants v. Fasken Oil & Ranch, Ltd.*, ___ S.W.3d ___, 2026 WL 1108688 (Tex. Apr. 24, 2026) (per curiam) [25-0010, 25-0012]

The issues in this case are how to interpret a double fraction in an oil-and-gas deed, whether the court of appeals had jurisdiction to consider the presumed-grant doctrine in a permissive appeal, and whether the presumed-grant doctrine applies.

Under a 1933 deed, Fasken holds a reserved "undivided one-fourth (1/4th) of the usual one eighth (1/8th) royalty in and to all oil, gas and other minerals in, to, and under or that may at any time hereafter be produced from" certain lands. For about 85 years, the parties to the deed and their successors treated the instrument as reserving a fixed 1/32 royalty interest. In 2019, Fasken filed suit and alleged that the deed actually reserved a floating 1/4 royalty interest. The trial court granted partial summary judgment in Fasken's favor and authorized a permissive appeal. The court of appeals affirmed in part, reversed in part, and held that it lacked jurisdiction to consider the presumed-grant doctrine because the trial court did not specifically identify that doctrine in its order certifying a permissive appeal.

The Supreme Court held that the court of appeals had jurisdiction to consider the presumed-grant doctrine. The Court concluded that doctrine was fairly included in the issues certified for a permissive appeal and was also closely tied to the issue of deed construction. The Court therefore reversed and remanded the case to the court of appeals for further proceedings. The Court further noted that its recent decision in *Clifton v. Johnson*, 733 S.W.3d 16 (Tex. 2026), clarified the law regarding double fractions and the presumed-grant doctrine and that the parties may argue the effect of *Clifton* to the court of appeals on remand.

b) *Helena Chem. Co. v. Bales*, ___ S.W.3d ___, 2026 WL 1354751 (Tex. May 15, 2026) (per curiam) [25-0812]

At issue in this case is whether the statutory requirements for a permissive interlocutory appeal were met.

A group of farmers claimed that Helena Chemical Company damaged their crops through the aerial application of herbicide. The Court previously decided a case with similar facts but different farmers, concluding that the farmers' experts raised no genuine issue of material fact to survive summary judgment. Helena argued that the farmers in this case offered the same expert testimony to prove the same claims. It therefore moved to

strike the expert opinions and for a no-evidence summary judgment, arguing that the Court's precedent controlled. The trial court denied the motion for summary judgment, but it gave Helena permission to appeal on the question of whether the Court's precedent dictated that the testimony was unreliable as a matter of law.

The court of appeals denied permission to appeal. It reasoned that there is no "substantial ground for difference of opinion" on the controlling question of law, as required by the permissive appeal statute, when, as Helena argues, precedent directs the outcome. Helena petitioned the Court for review.

The Supreme Court reversed and remanded the case with directions to accept the permissive appeal. The Court held that the statute is satisfied when there is a substantial ground for concluding that a trial-court ruling is at odds with binding precedent. The Court concluded that in each case where an interlocutory appeal is permitted, the trial court will have answered some "controlling question of law," and the trial court's answer should be treated as the product of a fair-minded jurist and used as the baseline for assessing whether there exists "a substantial ground for difference of opinion." When, as in this case, the trial court comes to a conclusion that it might have acted contrary to controlling precedent, the Court concluded that the appellate court should take it at its word. Under such circumstances, the Court held there is a substantial ground for concluding that the trial court's answer is at odds with binding precedent and the statute is satisfied.

c) *McKesson Med.-Surgical Inc. v. Cleveland*, ___ S.W.3d ___, 2026 WL 1838572 (Tex. June 26, 2026) (per curiam) [26-0005]

This case asks whether the requirements for a permissive inter-locutory appeal were satisfied.

Jenifer Cleveland died after receiving an infusion containing TPN electrolytes at a medical spa. Her family sued McKesson, a distributor, for negligently selling the electrolytes to the spa's owner. McKesson moved to dismiss based on a statute that protects nonmanufacturing sellers from liability for harm caused by a product. Plaintiffs responded that the statute applies only in products liability actions, which they assert they did not plead. The trial court denied McKesson's motion but granted permission to appeal the question of the statute's applicability.

The court of appeals denied McKesson's petition for permissive appeal, concluding that it failed to show "a substantial ground for difference of opinion" regarding the controlling legal question. The court noted that the only appellate court to address the statutory question held that it was limited to products liability actions.

The Supreme Court reversed and directed the court of appeals to accept the appeal. The Court held that "a substantial ground for difference of opinion" existed on the statutory-construction question because the Supreme Court had not addressed it and competing reasonable interpretations exist. The Court also held that

McKesson satisfied the requirement that an immediate appeal "may materially advance the ultimate termination of the litigation" because an answer in McKesson's favor would likely result in its dismissal.

4. Preservation of Error

a) *Borusan Mannesmann Pipe US, Inc. v. Hunting Energy Servs., LLC*, 716 S.W.3d 572 (Tex. June 27, 2025) (per curiam) [24-0183]

This case concerns the standards for appellate forfeiture.

The underlying dispute between Borusan and Hunting is about which of them must indemnify the other for defective pipes sold to a third party. The trial court rendered a declaratory judgment in favor of Hunting. Borusan appealed, but the court of appeals held that Borusan inadequately briefed and thus forfeited its indemnity issue, which the court therefore refused to consider. Borusan filed a petition for review, arguing that it did not forfeit its indemnity issue.

The Supreme Court reversed. Citing its recent decision in *Bertucci v. Watkins*, 709 S.W.3d 534 (Tex. 2025), it explained that courts should reach the merits of an appeal and avoid summarily disposing of issues based on procedural defects whenever possible. Borusan's brief did not cite statutes or cases, but it spent five pages asserting its theory of the case and provided record citations to documents, testimony, and the trial court's findings of fact and conclusions of law. Parties need not cite statutes or cases if they are not essential or relevant to the legal position they advance. Borusan's argument was adequate to preserve its indemnity issue. Whether the argument was sufficiently thorough or persuasive for it to prevail presents a wholly different question on which the Court expressed no view. Accordingly, the Court reversed the court of appeals' judgment and remanded the case to that court for consideration of Borusan's issue on the merits.

5. Remand in the Interest of Justice

a) *Valk v. Copper Creek Distribs., Inc.*, 733 S.W.3d 9 (Tex. Apr. 17, 2026) [24-0516]

At issue in this case is whether the court of appeals erred when it remanded for a new trial based on jury-charge error despite the presence of other, unaddressed rendition points.

Ron Valk d/b/a Platinum Construction sued Copper Creek Distributors and others based on an alleged labor-theft scheme. Following a jury verdict and judgment for Platinum, Copper Creek appealed and raised several issues, including some that, if meritorious, would have entitled Copper Creek to rendition of judgment. The court of appeals considered only one issue: whether the trial court erred by giving a spoliation instruction. The court reversed and remanded for a new trial in the interest of justice, reasoning that the erroneous instruction prevented full development and presentation of the evidence.

The Supreme Court reversed and remanded the case to the court of appeals. The Court held that remanding for a new trial without first considering appellate issues that might result in rendition was improper. The Court

explained that, while there are circumstances in which a remand for further development or in the interest of justice is appropriate instead of rendition, those are cases where the governing law changed during the life of the case or where the trial court's error precluded a party from presenting a necessary aspect of its case. The Court concluded there was no change in the law, and this record did not suggest that the instruction precluded presentation or development of the evidence, so the court of appeals could have rendered a judgment if it had determined that the rendition points were meritorious. The Court also noted that the court of appeals' failure to first consider the rendition points erroneously limited its harm analysis.

6. Supersedeas Bonds

a) *In re Greystar Dev. & Constr., L.P.*, ___ S.W.3d ___, 2026 WL 1445481 (Tex. May 22, 2026) [24-0293]

At issue in this original proceeding is whether the Civil Practice and Remedies Code caps the amount of supersedeas security on a per-judgment or per-debtor basis.

Three Greystar Entities filed a $25 million joint supersedeas bond seeking to suspend execution of an adverse money judgment during their appeal of the judgment. The trial court ordered that the bond was insufficient as to two of them after determining that the statutory $25 million cap on the amount of security applied to each judgment debtor seeking to supersede the judgment. The court of appeals affirmed the order. The Greystar Entities petitioned the Supreme Court for a writ of mandamus.

In an opinion authored by Justice Busby, the Supreme Court held that the $25 million cap on the "amount of security" applies per debtor because "security" is defined by statute as "a bond or deposit posted . . . by a judgment debtor." The Court concluded that this language sets a cap on the amount of a bond posted by a debtor, not on the amount of security for a money judgment. The Court thus concluded that the trial court did not abuse its discretion in ruling the joint bond insufficient as to two of the three Greystar Entities, but the Court conditionally granted mandamus relief and directed the trial court to provide a reasonable time to post sufficient bonds.

Justice Huddle filed an opinion dissenting in part and would have applied the cap on a per-bond basis and held the $25 million joint bond sufficient as to all three Greystar Entities.

b) *In re Kay*, 715 S.W.3d 747 (Tex. June 13, 2025) (per curiam) [24-0149]

This case addresses whether a trial court has discretion to allow a judgment debtor with a net worth over $10 million to post alternative security.

Yosowitz sued Kay for breach of their divorce agreement and fiduciary duties, and Yosowitz obtained a $54 million judgment. Seeking to suspend the judgment, Kay filed an affidavit of net worth and two cashier's checks totaling half of his asserted net worth. At the net worth hearing, the parties principally contested the value of Kay's shares in his privately held startup, Entera Holdings. Accepting the valuation testimony of Yosowitz's experts

over that of Kay's expert, the trial court found that Kay's shares were worth $182 million and set $25 million as the required bond amount.

Kay challenged the bond order by motion in the court of appeals, which upheld the trial court's order. Kay then sought mandamus relief in the Supreme Court.

The Court conditionally granted mandamus relief. The Court did not disturb the trial court's finding regarding the value of Kay's Entera shares. But the Court reversed the court of appeals' determination that Texas Rule of Appellate Procedure 24.2(e) deprives trial courts of the discretion to allow alternate security for judgment debtors with a net worth over $10 million. Instead, Rule 24.1(a) continues to contemplate supersedeas as ordered by the court. Thus, trial courts are not limited to the alternative security that Rule 24.2(e) requires in certain cases; they retain discretion to allow alternative security under Rule 24.1(a)(4) for judgment debtors with net worths of $10 million or more. Accordingly, the Supreme Court directed the court of appeals to determine in the first instance whether the trial court abused its discretion in refusing Kay's offer to tender his Entera stock certificate as alternate security.

7. Temporary Orders

a) *In re Paxton*, 727 S.W.3d 490 (Tex. Dec. 22, 2025) (per curiam) [25-0641]

In this case, the issue is whether appellate courts must decide whether a party is likely to succeed on the merits before issuing injunctive relief under Texas Rule of Appellate Procedure 29.3.

The Attorney General issued administrative rules imposing reporting requirements on local prosecutors. A group of counties and prosecutors sued, and the trial court temporarily enjoined the rules' enforcement. The Attorney General appealed, which automatically superseded the injunction. But the court of appeals issued an order under Rule 29.3 leaving the injunction in place as to the named parties. The Attorney General sought mandamus relief, arguing that the court of appeals' order was an abuse of discretion.

The Supreme Court conditionally granted relief. The Court reiterated that appellate courts must determine whether the party seeking a stay under Rule 29.3 is likely to succeed on the merits. It concluded that the court of appeals erred by granting the stay without considering the merits despite the complexity of the issues and the court's limited time to determine who was likely to succeed on the merits. The Court directed the court of appeals to evaluate the merits and determine whether a Rule 29.3 stay was warranted.

In a concurring opinion, Justice Bland observed that, in addition to evaluating the likelihood of success on the merits, appellate courts considering a Rule 29.3 stay must also evaluate the balance of harms associated with the requested relief and must have a reasonable time to determine if relief is warranted.

8. Waiver

a) *1 Coventry Ct., LLC v. The Downs of Hillcrest Residential Ass'n*, 728 S.W.3d 711 (Tex. Jan. 9, 2026) (per curiam) [24-1047]

At issue in this case is whether a party waived its appellate rights by signing a settlement agreement, which the party claims is invalid.

1 Coventry Court, LLC sued The Downs of Hillcrest Residential Association over a dispute about a fence. Moments before trial, the parties executed a written document that included a provision stating that the parties would "execute a full and final settlement agreement."

After two months, the parties had not signed a final settlement agreement. The trial court entered judgment incorporating the pretrial agreement and ordered the parties to sign a final settlement agreement. Both parties proposed agreements, and each side refused to sign the other's agreement. The Association moved to hold Coventry in contempt, asserting that Coventry disobeyed the trial court's judgment by refusing to sign the Association's version of the agreement. The trial court held Coventry in contempt and ordered it to sign the Association's drafted settlement agreement. Coventry signed the agreement and appealed. The court of appeals dismissed Coventry's appeal, holding that Coventry relinquished its right to appeal by executing the final settlement agreement.

The Supreme Court reversed, holding that the court of appeals erred by accepting the settlement agreement at face value and treating its appellate waiver as conclusive. Because Coventry contested the validity of the settlement agreement that purported to waive its appellate rights, the court of appeals had an obligation to review the record to ascertain whether there was a valid waiver. The Supreme Court remanded the case to the court of appeals for further proceedings.

Y. PROCEDURE—PRETRIAL

1. Certificates of Merit

a) *Studio E. Architecture & Interiors, Inc. v. Lehmberg*, ___ S.W.3d ___, 2026 WL 1500909 (Tex. May 29, 2026) [24-0286]

This case concerns whether a plaintiff may reassert claims dismissed without prejudice for failure to attach a certificate of merit through amendment or only in a new lawsuit.

Lehmberg sued Studio E. and other defendants for claims related to home renovation work. Studio E. moved to dismiss the claims against it because Lehmberg did not file a certificate of merit with her original petition. The trial court denied the motion, but the court of appeals reversed and dismissed the claims against Studio E. On remand, the trial court concluded that Lehmberg's claims should be dismissed without prejudice.

Lehmberg filed an amended petition reasserting the same claims with a certificate of merit. Studio E. again moved to dismiss, arguing that Lehmberg must file her claims with a certificate of merit in a new lawsuit. The trial court denied the motion, and the court of appeals affirmed.

The Supreme Court also affirmed. In an opinion by Justice

Huddle, the Court explained that, although the statute requires filing a certificate of merit with the first pleading asserting claims against a defendant covered by the statute, a dismissal without prejudice places the parties in the position they were in before the suit was brought. The Court therefore held that Lehmberg's claims could be reasserted in an amended petition, according to the ordinary rules, as if they were brought for the first time. The Court reserved for the trial court the question of whether Lehmberg's amended petition relates back to her original petition for limitations purposes.

Justice Hawkins filed a concurring opinion, concluding that the Court's interpretation best harmonizes the statute with baseline procedural rules, and noting that the statute's lack of a clear time limit for filing a motion to dismiss invites gamesmanship.

Justice Sullivan filed a dissenting opinion. He would have held that, because the statute requires that the certificate of merit be filed with the first petition asserting claims against a covered defendant, Lehmberg was required to file the requisite certificate attached to the first pleading in a new cause.

2. Discovery

a) *4 Fams. of Hobby, LLC v. City of Houston*, 730 S.W.3d 641 (Tex. Jan. 9, 2026) (per curiam) [24-0796]

The issue in this case is whether Pappas is entitled to jurisdictional discovery in its challenge to the City of Houston's concessions contract with Areas for the Houston Hobby Airport.

Pappas previously oversaw concessions at the airport for over twenty years, pursuant to a contract with the City. The City solicited bids for a new airport concessions contract and awarded the contract to Areas. The City and Areas entered a contract making Areas the concessionaire at Hobby Airport. Pappas sued the City, seeking a declaration that the Areas contract was void because the City failed to comply with the competitive bidding procedures in Chapter 252 of the Texas Local Government Code.

The City filed a plea to the jurisdiction, arguing that the governmental immunity waiver in Chapter 252 does not apply because the contract does not require expenditures of more than $50,000 by the City. The trial court denied the City's plea. The court of appeals reversed and dismissed Pappas's Chapter 252 claim.

The Supreme Court reversed and remanded the case to the trial court for jurisdictional discovery. The Court held that Pappas is entitled to jurisdictional discovery because the contract could reasonably be read to require expenditures by the City of more than $50,000, depending on the facts. Jurisdictional discovery is therefore necessary for Pappas to have an opportunity to establish a genuine issue of material fact regarding whether the contract requires city expenditures in excess of $50,000 and thus triggers an immunity waiver under Chapter 252.

3. Forum Non Conveniens

a) *In re Greyhound Lines, Inc.*, 718 S.W.3d 250 (Tex. May 23, 2025) (per curiam) [23-1035]

The issue in this case is whether the trial court should have dismissed the suit based on statutory forum non conveniens.

Maria Granados was traveling by bus from her home in Alabama to Salvatierra, Mexico. On her trip's last leg, which was entirely in Mexico, the bus crashed and Maria died. Maria's son had purchased her ticket from Greyhound, a company headquartered in Dallas. But Estrella Blanca, a Mexican bus company, owned and operated the bus that crashed. Members of the Granados family sued Greyhound, Estrella Blanca, and the bus driver, bringing claims that included breach of contract, fraudulent misrepresentation, and negligence. Greyhound—the only defendant who has appeared—filed a motion to dismiss based on forum non conveniens. The trial court denied the motion, and the court of appeals denied mandamus relief.

The Supreme Court granted conditional mandamus relief and ordered the trial court to dismiss the case. The Court held that each forum non conveniens factor favored dismissal. The Mexican forum is available and provides an adequate remedy. Greyhound stipulated that it would submit to the jurisdiction of Mexican courts and waive limitations in Mexico. The bulk of the evidence and witnesses relevant to the case are in Mexico, and Mexican law will apply to most of the claims. Finally, the Court held that Greyhound did not judicially admit to a proper forum in Dallas or waive its forum non conveniens argument by filing a cross-claim against Estrella Blanca for contractual indemnification for this litigation.

4. Sanctions

a) *In re Newkirk Logistics, Inc.*, 718 S.W.3d 240 (Tex. May 16, 2025) (per curiam) [24-0255]

The issue in this case is whether the trial court abused its discretion by imposing death-penalty sanctions against a party for alleged discovery abuses.

Rayah Lemons and Nicholas Begaye were injured when their vehicle was struck by a tractor-trailer operated by Mario Cottman, an employee of Newkirk Logistics. Plaintiffs sued Cottman, Newkirk, DHL eCommerce, and Hogan Truck Leasing, asserting various ordinary and gross negligence claims. During discovery, Plaintiffs sought contracts between Newkirk and DHL eCommerce. Newkirk stated that it found no responsive documents after diligent searches. Later, DHL eCommerce produced two contracts that were signed by it and Newkirk. Plaintiffs then moved for sanctions against Newkirk, arguing that Newkirk intentionally concealed and failed to produce the contracts. The trial court struck Newkirk's pleadings as a sanction for discovery abuse. The court of appeals denied Newkirk mandamus relief.

The Supreme Court conditionally granted mandamus relief. The Court held that the trial court abused its discretion in imposing death-penalty sanctions against Newkirk. Although Newkirk signed the contracts years earlier, there was insufficient evidence that Newkirk intentionally

concealed or failed to produce the contracts. The Court also rejected the trial court's other justifications for the death-penalty sanctions, finding insufficient evidence that Newkirk had possession of or intentionally withheld other requested documents. As a result, the sanctions lacked a direct relationship to the alleged conduct, and the sanctions were excessive because the record lacked evidence of flagrant or extreme bad faith. Further, the trial court did not consider lesser sanctions before striking Newkirk's pleadings. Accordingly, the Court directed the trial court to vacate its order striking Newkirk's pleadings.

5. Summary Judgment

a) *Crane v. Crane*, ___ S.W.3d ___, 2026 WL 1838589 (Tex. June 26, 2026) (per curiam) [25-0386]

This case asks whether a motion for no-evidence summary judgment adequately identified the elements of a claim lacking evidence.

Sasha Crane sued Robert Crane, her neighbor and father-in-law, for declaratory and injunctive relief to halt construction on a fence between their properties. Sasha alleged that the fence would interfere with her use and enjoyment of an express easement once completed. Nine months later, Robert filed a motion for no-evidence summary judgment arguing that Sasha had no evidence of an easement or that his fence "crosses any easement" belonging to her. The trial court granted Robert's motion, rendered judgment that Sasha take nothing, and awarded Robert attorney's fees. Sasha appealed, and the court of appeals reversed and held that Robert's motion failed to specify that there was no evidence of interference with Sasha's use and enjoyment of her easement.

The Supreme Court reversed the court of appeals' judgment and reinstated the trial court's judgment. The Court held that Robert's motion sufficiently put Sasha on notice of challenges to the elements of her declaratory action and request for injunctive relief alleging that Robert's fence interfered with her use and enjoyment of an express easement. The Court further held that the evidence filed with Sasha's response to Robert's motion supported only that Sasha still has a right to use and enjoy an express easement and did not establish an issue of material fact whether Robert interfered with her use and enjoyment.

b) *Lozada v. Posada*, 718 S.W.3d 262 (Tex. June 20, 2025) (per curiam) [23-1015]

The issue in this case is whether the court of appeals erred in reversing the trial court's grants of no-evidence motions for summary judgment.

Cesar Posada sued Osvanis Lozada and Lozada's employer, TELS, Inc., following a collision between two tractor trailers. He brought negligence and negligence per se claims against Lozada and sought to hold TELS vicariously liable. After Lozada and TELS filed no-evidence motions for summary judgment, Posada submitted evidence that Lozada was traveling under the speed limit when a tire on his tractor trailer suddenly and unexpectedly lost air, causing him to lose control and jackknife before Posada crashed into him. The trial court granted the

motions, but in a divided decision, the court of appeals reversed. It held that from the evidence Posada submitted, a reasonable jury could conclude that Lozada breached his duty of care and that Lozada's negligence was a proximate cause of Posada's injuries. Because Posada's claims against Lozada survived, the court of appeals concluded that Posada's vicarious-liability claim against TELS survived as well.

The Supreme Court reversed. On a limited summary-judgment record consisting solely of Lozada's deposition testimony and two photographs of the accident scene, the Court concluded that Posada failed to produce more than a scintilla of evidence that Lozada breached his duty of care. Accidents happen when something has gone wrong, but not all accidents are evidence of negligence. Here, no evidence suggested that Lozada acted negligently in trying to control the tractor trailer in response to a rapid, unforeseen tire failure. Because summary judgment for Lozada was appropriate, summary judgment for TELS was appropriate as well. Thus, the Supreme Court reinstated the trial court's judgment, dismissing Posada's claims against Lozada and TELS with prejudice.

c) *Kuo v. Regions Bank*, 722 S.W.3d 15 (Tex. Oct. 10, 2025) (per curiam) [24-1039]

In this appeal of a summary judgment, the issue is whether the court of appeals erred in refusing to address the merits of issues Petitioners raised.

Regions Bank made loans for a medical facility. Petitioners signed guaranties securing the loans. The Bank sued Petitioners to collect on the guaranties. The district court granted summary judgment for the Bank.

Petitioners raised several issues on appeal. As to three of these issues challenging the sufficiency of the evidence, the court of appeals did not reach the merits, instead ruling sua sponte that the issues were not preserved because the appellate record was missing certain documents offered in support of the Bank's summary judgment motion. Petitioners and the Bank agreed that even though the documents were not attached to the relevant summary judgment motion, they had been filed multiple times in the voluminous record and referenced several times in various pleadings, including previously filed summary judgment motions.

The Supreme Court reversed the court of appeals' judgment and remanded the case to that court. Under Texas Rule of Civil Procedure 166a(c), the trial court can consider evidence "on file" at the time of the summary judgment hearing. The evidence does not have to be physically attached to the motion. The court of appeals therefore should have reached the merits of Petitioners' evidentiary challenges. If that court was uncertain as to whether documents attached to one pleading were equally applicable to the motion under review, it could have asked the parties to clear up the uncertainty instead of sua sponte finding a forfeiture that was not urged by the Bank.

d) *State v. $3,774.28*, 713 S.W.3d 381 (Tex. May 16, 2025) [24-0258]

At issue in this case is whether,

in deciding a no-evidence motion for summary judgment, the trial court should have considered an affidavit that was on file with the court but not attached to the nonmovant's response to the no-evidence motion.

The State initiated civil-forfeiture proceedings for bank accounts related to an opioid-trafficking operation. The claimants filed a no-evidence motion for summary judgment on the State's claim that the accounts were used or intended to be used in the commission of a felony, making the accounts contraband. The State's response to the motion referenced and summarized an affidavit from the investigating law enforcement officer. The affidavit was attached to the State's original notice of forfeiture proceedings but was not attached to its response to the no-evidence motion.

The trial court granted summary judgment for the claimants, refusing to consider the affidavit because it was not attached to the State's response. The court of appeals affirmed, concluding that the rules require attachment.

The Supreme Court reversed. It held that Texas Rule of Civil Procedure 166a(i) does not require attachment of previously filed evidence. Rather, the more crucial inquiry is whether the nonmovant's response points out the evidence it alleges raises a fact issue. But "mere reference" to previously filed evidence is insufficient; the nonmovant must discuss the evidence with some specificity. The State's discussion of the affidavit in its response adequately directed the trial court's attention to the alleged fact issues, and the trial court abused its discretion in refusing to consider the affidavit. Without commenting on the merits of the claimants' no-evidence motion, the Court remanded the case to the trial court to reconsider the motion in light of the Court's opinion.

6. Venue

a) *Rush Truck Ctrs. of Tex., L.P. v. Sayre*, 718 S.W.3d 233 (Tex. June 6, 2025) [24-0040]

This case raises venue and jurisdiction issues in an interlocutory appeal from a venue ruling.

Six-year-old Emory Sayre died after a school bus accident. Her parents sued the manufacturer, Rush Truck, in Dallas County for product liability. Rush Truck moved to transfer venue to either Parker County, where the accident occurred, or Comal County, Rush Truck's headquarters. The trial court denied the motion. The court of appeals affirmed, holding that a substantial part of the events or omissions giving rise to the Sayres' product liability claim arose in Dallas County. The court of appeals noted evidence that the bus was ordered, delivered, inspected, titled, billed, and paid for out of Rush Truck's Dallas County office.

The Supreme Court vacated the judgment of the court of appeals and remanded the case for further proceedings in the district court. The Court held that Section 15.003(b) of the Civil Practice and Remedies Code did not allow for interlocutory appeal in this case involving multiple plaintiffs. Section 15.003(b) provides a limited exception to the general prohibition against interlocutory appeals. It permits interlocutory appeal of a venue determination involving multiple plaintiffs only in

cases where a plaintiff's independent claim to venue is at issue. Because the plaintiffs asserted identical claims, based on identical facts, with identical venue grounds, the court of appeals lacked jurisdiction over the interlocutory appeal.

Z. PROCEDURE—TRIAL AND POST-TRIAL

1. Default Judgments

a) *Shamrock Enters., LLC v. Top Notch Movers, LLC*, 728 S.W.3d 693 (Tex. Jan. 16, 2026) [24-0581]

This restricted appeal challenges a no-answer default judgment based on defective service of process.

Texas-based Top Notch Movers sued Alabama-based Shamrock Enterprises for failing to pay for moving services provided in Alabama and Louisiana. Top Notch requested substituted service of process on the Texas Secretary of State under the Business Organizations Code, alleging Shamrock failed to maintain a registered agent for service in Texas. Top Notch's filings identified the address in the citation as Shamrock's "principal office" and "last known address." The Secretary certified he forwarded service to Shamrock at that address but it was returned with the notation "Return to Sender, Vacant, Unable to Forward." Shamrock never appeared, and the default judgment, which was mailed to Shamrock at the same address, was similarly returned as undeliverable. On restricted appeal, the court of appeals affirmed, finding no error apparent on the face of the record.

The Supreme Court unanimously reversed and vacated the judgment. Without deciding whether Shamrock was amenable to substituted service under the cited statute, the Court held that the default judgment was improper because the record did not reflect that process was forwarded to the address the statute required—the defendant's "most recent address on file with the secretary of state." The Secretary's certification was conclusive only as to the facts stated therein. The lower courts erred in presuming the forwarding address was the one the statute required when nothing in the record or certification indicated that it was. No presumptions in favor of valid service are entertained following a no-answer default judgment.

Chief Justice Blacklock wrote separately to note that the default judgment would also be improper even if the statute had been followed. Top Notch knew the service address was ineffective and had other contact information for Shamrock, but the record did not indicate Top Notch took any steps to notify Shamrock about the lawsuit after the initial service effort failed. If it were necessary to reach the issue, he would hold that our Constitutions prohibit rendition of a default judgment when the plaintiff could have taken further reasonable and nonburdensome steps to provide actual notice of a lawsuit but failed to do so.

b) *Tabakman v. Tabakman*, 728 S.W.3d 703 (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.

2. New Trial Orders

a) *In re Lapuerta*, 732 S.W.3d 548 (Tex. Apr. 10, 2026) [24-0879]

This case concerns whether the trial court erred in ordering a new trial.

Jose Torres injured his finger in a saw accident. Dr. Lapuerta treated him. Torres was later treated by another doctor who amputated the finger. Torres sued Lapuerta for malpractice. The jury was given a "loss of chance" instruction stating that the finger must have had a greater than 50% chance of survival for Lapuerta's negligence to be a proximate cause of injury. The trial court rendered judgment for Lapuerta after the jury returned a defense verdict. Torres moved for a new trial, initially referencing a letter from the lone dissenting juror. This juror thought that the jury was uncertain whether the loss of chance instruction referred to all or part of the finger. There had been a question from the jury regarding this uncertainty. The trial court granted Torres's amended motion for new trial, giving several reasons. Lapuerta unsuccessfully sought mandamus relief in the court of appeals and then sought relief in the Supreme Court.

The Court directed the trial court to vacate the new-trial order and render judgment based on the verdict. The Court first noted that the juror's letter invaded the privacy of jury deliberations and should not have been considered. Several of the reasons given for the new trial questioned whether "loss of chance" or "lost chance of survival" was recognized under Texas law at all or whether it was limited to cases where the patient died. The Court held that loss of chance is a recognized doctrine and is not limited to death cases. It also reasoned, contrary to the new-trial order, that even if an ideal instruction might have distinguished between the whole finger and the partial finger, the record did not show that the jury probably would have reached a different result with a more nuanced instruction.

b) *In re Space Expl. Techs. Corp.*, 716 S.W.3d 576 (Tex. June 27, 2025) (per curiam) [24-0290]

In this original proceeding, the issue is whether the trial court abused its discretion in overturning a jury verdict and granting a new trial.

While commuting to work at a SpaceX site, Lauren Krueger rear-ended a vehicle, pushing it into a pickup. The pickup passengers contacted their employer, who in turn reached out to his lawyer. That lawyer referred them to various doctors for treatment. The passengers then sued Krueger for negligence and SpaceX for vicarious liability. At trial, the parties disputed the existence and extent of the injuries, and testimony described how the employer's lawyer referred the plaintiffs to doctors. Closing arguments featured vigorous advocacy, with SpaceX's counsel describing the lawsuit as a "lawyer-driven plan" and "shakedown."

The jury found that Krueger's negligence caused the accident and she was acting outside the scope of her SpaceX employment. After rendering judgment on the verdict, the trial court granted plaintiffs' motion for a new trial. The court ultimately provided three reasons in its new-trial order: (1) defense counsel's closing included incurable argument, (2) testimony about the lawyer's doctor referrals was improperly admitted, and (3) the awarded damages were manifestly low. SpaceX and Krueger petitioned for mandamus relief, which the court of appeals denied.

The Supreme Court conditionally granted mandamus relief, holding that none of the cited reasons supported a new trial. First, a new trial is inappropriate for improper argument when the error was curable, but the complaint was waived. Here, the jury argument was not incurable and even if improper, the plaintiffs failed to request a curative instruction or obtain a ruling on the objection. Second, evidence that the lawyer chose the doctors was admitted without objection, thus waiving any error. Finally, the new-trial order did not explain how or why the awarded damages were manifestly low. But the mandamus record lacked plaintiffs' medical exhibits to establish that the trial court had no valid basis to reach that conclusion. The Court therefore required the trial court to redraft its order to explain its reasoning as to this ground. Because this reason does not address the jury's finding that Krueger was acting outside the scope of her employment, the Court explained that the redrafted order must be limited to the claims against Krueger, and the trial court must render a take-nothing judgment in SpaceX's favor.

3. Post-Judgment Filing Deadlines

a) *Red Bluff, LLC v. Tarpley*, 713 S.W.3d 412 (Tex. May 9, 2025) (per curiam) [24-0005]

This case concerns whether a defendant is entitled to an extension of the post-judgment motion filing deadline under Rule of Civil Procedure 306a because it did not acquire "actual knowledge" of a final judgment against it.

In 2022, a jury awarded Nicole Tarpley a judgment on her claims

against Red Bluff, her employer. The court clerk sent notice of the signed judgment to Red Bluff's counsel via email on February 8. Red Bluff's counsel averred, however, that he did not see the email until March 14, when Tarpley's counsel demanded payment on the judgment. Red Bluff filed a Rule 306a motion to reset post-judgment deadlines, requesting that the thirty-day deadline run from the date it obtained actual knowledge of the judgment. The trial court denied the motion, determining Red Bluff was not entitled to a deadline extension because its counsel acquired actual knowledge of the judgment upon receipt of the February 8 email. The court of appeals agreed and affirmed.

The Supreme Court reversed, determining that Red Bluff satisfied Rule 306a's requirements. The Rule extends the deadline for filing post-judgment motions if a party has neither received the notice required by the Rule nor acquired actual knowledge of the judgment. First, because the version of Rule 306a in effect at the time required notice to be sent via first class mail, Red Bluff did not receive the requisite notice. Second, because actual knowledge requires subjective awareness of a fact, Red Bluff's counsel's receipt of the February 8 email did not demonstrate his actual knowledge of the judgment because he did not see the email on that date. Red Bluff was therefore entitled to have its post-judgment deadlines reset to run from March 14, when it obtained actual knowledge of the judgment. The Supreme Court remanded to the trial court to consider Red Bluff's post-judgment motions.

AA. PRODUCTS LIABILITY

1. Statute of Repose

a) *In re Bell Helicopter Servs. Inc.*, ___ S.W.3d ___, 2026 WL 1108684 (Tex. Apr. 24, 2026) [24-0883]

This case concerns whether a federal statute of repose bars a personal-injury suit.

Matthew Kawamura died when the helicopter he was piloting crashed. His family sued the manufacturer, Bell Helicopter, alleging that the crash occurred when an engine cowling came loose. Bell sought summary judgment under the federal General Aviation Revitalization Act, which provides that no action against a manufacturer may be brought if the accident occurred more than 18 years after the manufacturer delivered the aircraft to its first purchaser. Here, the accident occurred more than 18 years after Bell delivered the aircraft. However, GARA includes a "rolling provision" stating that if the manufacturer replaces or adds a "new" part that is "alleged to have caused" the accident, the 18-year clock restarts from the date of the replacement or addition.

The plaintiffs argued that the 18-year clock had reset under the rolling provision because the alleged defect was the helicopter manual's failure to explicitly warn in the preflight checklist that a loose cowling was dangerous. They pointed out that the manual had been revised several times during the 18-year repose period. The district court denied the summary judgment motion. The court of appeals denied mandamus relief sought by Bell.

The Supreme Court granted mandamus relief, directing the district court to grant summary judgment for Bell. The Court interpreted the rolling provision to mean that the relevant "part" is not the preflight-check subsection or manual as a whole; instead, the plaintiff must show that the revision to the manual caused the accident. Here, the manual's original preflight checklist provided that the pilot should confirm that the cowling is secured, and this provision was never revised. Because the revisions to the manual were unrelated to the accident, the Court held that Bell was entitled to summary judgment. The Court noted that a denial of summary judgment does not typically merit mandamus relief, but here, statutory language providing that no action "may be brought" weighed in favor of mandamus relief allowing a defendant to avoid litigation altogether. The Court noted that it had recognized an entitlement to mandamus relief in two recent cases where a federal statute prescribed when civil actions "may" or "may not" be brought.

BB. REAL PROPERTY

1. Easements

a) *Boerschig v. Rio Grande Elec. Coop.*, ___ S.W.3d ___, 2026 WL 1468464 (Tex. May 22, 2026) [24-0213]

In this trespass case, the parties dispute whether Rio Grande Electric Cooperative possesses an easement by estoppel over John Boerschig's land and, if so, whether Rio Grande's upgrades to the distribution line on the easement exceeded its scope.

In 1947, Rio Grande constructed an electric distribution line crossing 1.6 miles of property that Boerschig acquired in 2002. After Boerschig acquired the property, Rio Grande made improvements upgrading the distribution line to serve new customers reliably. The upgrade tripled the number of poles, increased their height by seven feet, added three more wires, and replaced the poles' wood with a fiberglass composite. Rio Grande made the upgrades in reliance on an unrecorded easement signed by the executor of the 1947 landowner's estate. Boerschig sued for trespass, seeking injunctive and declaratory relief.

A jury found that Rio Grande possessed an easement by estoppel and that Boerschig failed to establish that Rio Grande's upgrades exceeded the scope of that easement. The court of appeals affirmed, holding that legally sufficient evidence supported the trial court's judgment.

The Supreme Court reversed. In an opinion by Justice Busby, the Court concluded that Rio Grande possesses an easement by estoppel because the unrecorded writing by the prior owner represented that an easement was conveyed, Rio Grande detrimentally relied on that representation, and Boerschig had notice of the line when he purchased the property. But the Court also held that the upgrades exceeded the scope of that easement as a matter of law. The Court explained that Rio Grande's reliance on the original landowner's representation of an easement and Boerschig's notice of the easement were both limited to the existing line. Moreover, Rio Grande produced no evidence that the upgrades were reasonably necessary to continue Rio Grande's existing use of the line.

Justice Bland dissented. She would conclude that, because Rio Grande adduced evidence that the upgrades were necessary and did not increase the landowner's burden, whether the upgrades exceeded the easement's scope was a fact question for the jury. As the jury found in favor of Rio Grande, she would affirm.

Justice Hawkins concurred, emphasizing that he disagrees with the dissent only as to whether these particular facts go so far beyond the proper confines of an easement by estoppel such that they constitute trespass as a matter of law.

2. Restrictive Covenants

a) *EIS Dev. II, LLC v. Buena Vista Area Ass'n*, 715 S.W.3d 689 (Tex. June 13, 2025) [23-0365]

At issue in this case is the application of a deed restriction prohibiting more than two residences from being built on any five-acre tract.

EIS purchased adjoining parcels of land totaling about 100 acres near Waxahachie. EIS proposed a residential development of 73 single-family lots, each less than five acres. After the Ellis County Commissioners' Court approved the plat, some adjoining landowners formed the Association and sued for a declaration that building one house on each lot would violate the restriction and requested an injunction limiting construction.

EIS responded with several defenses and counterclaimed to have the restriction declared unenforceable. The trial court rejected EIS's defenses and counterclaim, ruled that development would violate the deed restriction, and enjoined development of more than 40 residences. The court of appeals affirmed.

The Supreme Court reversed. In an opinion by Justice Busby, the Court held that the proper construction of the restriction permits tracts of fewer than five acres and allows for one residence to be built on each sub-five-acre tract. Nothing in the text of the restriction suggests that it should be read as a minimum-tract-size restriction. The Court went on to hold that: neither the Association nor the adjoining-landowner parties to the suit had waived or abandoned their right to enforce the restrictions; the trial court erred in refusing to allow the jury to consider changes that occurred after the restriction was created but before EIS purchased the parcels; and the remaining counterclaim did not require joinder of nonparty adjoining landowners or the State.

Justice Lehrmann dissented in part. She would have held that the restriction limited EIS to building no more than 40 main residences on the 100 acres.

CC. STATUTE OF LIMITATIONS

1. Applicability

a) *Family Dollar Stores of Tex., LLC v. JLMH Invs., LLC*, ___ S.W.3d ___, 2026 WL 1871092 (Tex. June 26, 2026) [24-0543]

At issue in this case is whether the two-year statute of limitations for injury to property bars JLMH's request for injunctive relief to abate an alleged nuisance.

JLMH began noticing flooding on its land around the time a Family

Dollar store was constructed on adjacent property. More than two years later, JLMH sued Family Dollar, asserting that Family Dollar's diversion of water constituted a nuisance and alleging claims for trespass, negligence, and Water Code violations. JLMH requested both damages and injunctive relief to abate the alleged nuisance. The trial court granted summary judgment in favor of Family Dollar. A short time later, the trial court signed another order that granted a permissive interlocutory appeal and stayed the case pending the interlocutory appeal. JLMH then filed an ordinary appeal with the court of appeals. The court of appeals reversed the portion of the trial court's judgment that dismissed JLMH's request for injunctive relief, holding that limitations cannot bar a request to abate a nuisance. The court of appeals affirmed the remainder of the trial court's judgment. Family Dollar petitioned for review, arguing that the two-year statute of limitations bars JLMH's claims seeking injunctive relief.

The Court reversed the judgment of the court of appeals and reinstated the judgment of the trial court, holding that the Court has appellate jurisdiction and that the two-year statute of limitations bars JLMH's claims seeking injunctive relief and damages for the alleged nuisance.

Justice Busby filed a concurring opinion discussing Texas cases and statutes addressing the limitations issue and noting certain rationales left open by the Court.

Justice Young filed an opinion concurring in part and in the judgment. Justice Young noted that the Court had jurisdiction. He further explained how injunctions to abate a nuisance are bound by statutes of limitations and that injunctions require a valid cause of action.

Justice Sullivan filed a dissenting opinion. He would have held that the trial court's order was not final and that the Court lacked appellate jurisdiction.

DD. TAXES

1. Cigars and Tobacco Products Tax

a) *Hancock v. RJR Vapor Co.*, ___ S.W.3d ___, 2026 WL 1275115 (Tex. May 8, 2026) [24-0052]

In this tax-refund case, the parties dispute whether RJR Vapor's VELO pouches are taxable as "tobacco products" under the Tax Code.

RJR Vapor sells oral nicotine pouches, which users place between the cheek and gum. When RJR introduced the pouches to the Texas market, it asked the Comptroller for a determination whether the pouches were taxable under the Cigars and Tobacco Products Tax. The Comptroller concluded that the pouches were taxable. RJR paid the tax under protest and filed suit, seeking a refund and a declaration that the pouches are not taxable tobacco products. RJR also challenged the constitutionality of the tax statute and its application.

The trial court held that the pouches were not taxable tobacco products and declared that the language of the Tax Code is unconstitutional both facially and as applied. The court of appeals affirmed the holding that the pouches are not taxable tobacco

products but did not reach the constitutional challenges.

The Supreme Court reversed. In an opinion by Justice Busby, the Court held that VELO pouches are taxable tobacco products because they are "made of . . . a tobacco substitute." The Court concluded that the pouches' blend of plant matter and nicotine take the place and function of taxable pulverized tobacco in pouched tobacco products. The Court remanded RJR Vapor's constitutional challenges to the court of appeals.

Justice Sullivan concurred *dubitante*, expressing doubt as to whether the inclusion of plant matter in VELO pouches should inform the Court's analysis.

2. Franchise Tax

a) *NuStar Energy, L.P. v. Hancock*, 731 S.W.3d 288 (Tex. Mar. 13, 2026) [24-0037]

This administrative-rule challenge involves the construction of a franchise-tax statute that allocates gross sales receipts to Texas if goods were "delivered or shipped to a buyer in this state." The decisive question is whether the statute sources sales receipts to the place goods were delivered to a buyer or whether the buyer's intended destination for the goods controls.

NuStar Energy requested a refund for franchise taxes paid on bunker fuel sold for use in foreign-registered vessels and delivered to the buyers at Texas ports. The company argued that the sales receipts should not be sourced to Texas because the nonresident buyers cannot legally use or dispose of the fuel in Texas or Texas waters. NuStar's tax-refund suit attacked the facial validity of Comptroller rules that make the physical point of transfer determinative as to sourcing. NuStar argued that the tax statute employs an ultimate-destination test that looks beyond the delivery point to the location the buyer ultimately situses goods for consumption, use, or storage. On cross-motions for summary judgment, the lower courts rejected NuStar's construction of the tax statute and upheld the Comptroller's point-of-delivery rules.

The Supreme Court affirmed, holding that the tax statute unambiguously sources receipts to Texas when a buyer takes possession and control within the state. The Court concluded that NuStar's rule challenge incorrectly construed the statute and failed to overcome the presumption that the Comptroller's rules are valid.

EE. TEXAS CITIZENS PARTICIPATION ACT

1. Applicability

a) *Ferchichi v. Whataburger Rests. LLC* and *Haven at Thorpe Lane, LLC v. Pate*, 713 S.W.3d 330 (Tex. May 9, 2025) [23-0568, 23-0993]

These cases address the scope of the term "legal action" in the Texas Citizens Participation Act.

In *Ferchichi*, Ferchichi filed a discovery-related motion to compel and for sanctions after Whataburger allegedly failed to disclose an investigative video of Ferchichi prior to mediation. In *Haven*, Haven filed a discovery-related motion to compel and for sanctions, arguing that Pate, a nonparty Haven served with a subpoena duces tecum,

failed to fully comply with the subpoena. Pursuant to the TCPA, Whataburger and Pate filed motions to dismiss these motions. Both trial courts denied the motions. Both courts of appeals reversed, holding that the TCPA applied to the sanctions motions. The courts concluded that because the motions sought additional relief in the form of monetary sanctions, they fell within the TCPA's definition of "legal action": "a lawsuit, cause of action, petition, complaint, cross-claim, or counterclaim or any other judicial pleading or filing that requests legal, declaratory, or equitable relief."

The Supreme Court reversed. Whataburger and Pate argued that the sanctions motions were legal actions to which the TCPA applied, relying on the catch-all provision in the Act's definition of "legal action." The Court applied the doctrine of *ejusdem generis* to limit that catch-all provision. It concluded that the judicial filings specifically listed in the definition serve the function of commencing or materially amending a proceeding on a substantive legal claim. So, the catch-all is limited to pleadings or filings that do the same. Further supporting that conclusion, the TCPA excludes from the definition of "legal action" "a procedural action taken or motion made in an action that does not amend or add a claim for legal, equitable, or declaratory relief." Ferchichi's and Haven's discovery-related motions to compel and for sanctions did not commence or materially amend a proceeding on a substantive legal claim and thus are not "legal action[s]" under the TCPA. Accordingly, the TCPA is inapplicable, and the courts of appeals erred in holding that Whataburger's and Pate's TCPA motions should have been granted. The Court remanded the cases to the respective trial courts for further proceedings.

b) *Weldon v. Lilith Fund for Reprod. Equity*, ___ S.W.3d ___, 2026 WL 1355075 (Tex. May 15, 2026) [24-0250]

The issue is whether the Texas Citizens Participation Act applies to a declaratory judgment suit because it is "based on" or "in response to" a Rule 202 petition seeking a pre-suit deposition.

Sadie Weldon filed the Rule 202 petition to investigate potential violations of the Texas Heartbeat Act by the Fund. The Fund then sued Weldon, seeking a declaration that the Heartbeat Act is unconstitutional and an anti-suit injunction to prevent Weldon's Rule 202 petition from proceeding. Weldon moved to dismiss the Fund's suit under the TCPA. The trial court denied the motion, and the court of appeals affirmed, holding that the TCPA does not apply because the Fund's suit is not based on or in response to the Rule 202 petition.

The Supreme Court reversed. The Court held that the Fund's suit is "based on" or "in response to" Weldon's Rule 202 petition, a TCPA-protected activity that the Fund sought to enjoin. Because Weldon established that the TCPA applies to the Fund's suit, the Court remanded the case to the court of appeals for consideration of the remaining issues under the TCPA.

2. Automatic Stay

a) *In re Madison*, 722 S.W.3d 864 (Tex. Oct. 31, 2025) (per curiam) [24-1073]

The issue in this case is whether the trial court violated a statutory stay of all trial court proceedings upon the appeal of the denial of a Texas Citizens Participation Act motion to dismiss.

Lynn Madison asserted several claims against Talise De Culebra Home Owners Association, Inc. and the law firm Roberts Markel Weinberg Butler Hailey, PC. The Firm filed a TCPA motion to dismiss, which the trial court denied. The Firm appealed, triggering an automatic stay of all trial court proceedings pending resolution of the appeal. The court of appeals reversed, rendered judgment in favor of the Firm, and remanded.

Before Madison timely sought the Supreme Court's review and before the court of appeals' mandate could issue, the Firm moved for attorney's fees in the trial court. The trial court granted the motion and disposed of all claims against the Firm. While Madison's petition for review remained pending in the Supreme Court, Madison sought mandamus relief directing the trial court to vacate its order.

The Supreme Court conditionally granted mandamus relief and directed the trial court to vacate its order granting attorney's fees and disposing of all claims against the Firm. The Supreme Court held that an interlocutory appeal is not resolved, and the automatic stay accompanying such an appeal does not expire, until the appellate mandate issues. The court of appeals' mandate had not issued, so the trial court's order violated the automatic stay.

3. Dismissal Standard

a) *Walgreens v. McKenzie*, 713 S.W.3d 394 (Tex. May 16, 2025) [23-0955]

The main issue in this case is whether an employer may take advantage of the TCPA's protections with respect to a claim that it negligently hired, trained, and supervised one of its employees.

McKenzie was shopping at Walgreens when one of its employees erroneously accused her of shoplifting at the store earlier in the day, which resulted in her detention by police. McKenzie sued Walgreens for, among other claims, negligent hiring, training, and supervision. Walgreens moved to dismiss under the TCPA, arguing that McKenzie's claims were based on the employee's alleged false report to police, making it a protected "communication made in connection with a matter of public concern." The trial court denied the motion and Walgreens appealed. A divided court of appeals affirmed in part and reversed in part, holding McKenzie's negligent hiring, training, and supervision claim was not subject to dismissal under the TCPA because it was not wholly based on or in response to the exercise of a protected right.

The Supreme Court reversed the portion of the court of appeals' judgment affirming the trial court's denial of Walgreen's motion to dismiss the claim, and it rendered judgment dismissing that claim. The Court held that the TCPA applies to any claim for negligent hiring, training, or supervision

when at least one of the underlying tortious acts is based on or in response to the defendant's exercise of free speech, as it was here. The Court further held that McKenzie failed to establish a prima facie case of negligent hiring, training, or supervision, and therefore her claim must be dismissed.

FF. TEXAS HEALTH CARE PROGRAM FRAUD PREVENTION ACT

1. Qui Tam Claims

a) *In re Tafel*, ___ S.W.3d ___, 2026 WL 1801256 (Tex. June 19, 2026) [24-1062]

This mandamus concerns the survivability of a pending qui tam action under the Texas Health Care Program Fraud Prevention Act and whether the underlying suit must be dismissed under the Act's first-to-file and public-disclosure bars or abated under the doctrine of dominant jurisdiction.

Dr. Ludlow brought the underlying suit against Bear Creek alleging Medicaid fraud under the Act. Bear Creek filed a plea to the jurisdiction and alternative motion to abate arguing that Ludlow's suit must be dismissed or abated based on similar Medicaid fraud allegations raised in a still-pending 2012 action by a different relator. After Ludlow died, Bear Creek moved for summary judgment and supplemented its plea to the jurisdiction arguing that the pending claims extinguished upon his death and could not be pursued by his estate representative, who had substituted in the case. The Attorney General filed an opposition to the motion for summary judgment and argued that the claims can proceed despite Ludlow's death. The trial court denied all relief.

In an opinion by Justice Busby, the Supreme Court held that pending qui tam claims under the Act survive because, although prosecuted by a private party, these claims are on behalf of the State and establish liabilities to the State for benefits wrongfully obtained from its health care programs. The Court also held that Bear Creek failed to establish at this stage that the suit is based on the facts underlying the still-pending 2012 action under the first-to-file bar and that the 2012 action does not constitute a prior public disclosure of the relevant fraud allegations requiring dismissal. Finally, the Court held that the doctrine of dominant jurisdiction does not require abatement in this case.

Justice Busby also filed a concurring opinion outlining relevant considerations for parties and courts addressing capacity in this context. Justice Bland filed a concurring opinion explaining the differences between the survival of the State's claim and the capacity of an executor to pursue it, which remains open on remand. Justice Young and Justice Sullivan filed a concurring opinion acknowledging outstanding questions about the Act concerning a private relator's standing and separation of powers.

2. Unlawful Acts

a) *Lab'y Corp. of Am. Holdings v. State*, ___ S.W.3d ___, 2026 WL 1782485 (Tex. June 19, 2026) [25-0127]

At issue in this case is whether (1) the Texas Health Care Program Fraud Prevention Act requires a

showing of materiality for alleged omissions and (2) if so, whether summary judgment was proper because LabCorp's alleged unlawful acts were immaterial.

In 2013, NPT Associates filed a qui tam lawsuit against LabCorp under the Act, prompting the State to investigate LabCorp's billing practices. The State served two civil investigative demands on LabCorp seeking information regarding the alleged unlawful conduct identified in the lawsuit. In response, LabCorp produced billing data and other documents, including a white paper and slide deck explaining LabCorp's billing practices.

The State intervened in the NPT Associates lawsuit in 2021, alleging that LabCorp violated administrative regulations by failing to offer "discounts" to Texas Medicaid that it had provided to non-Medicaid payors. The State alleged that LabCorp made false statements, misrepresentations, and omissions in violation of the Act.

LabCorp filed a motion for summary judgment, arguing that the State failed to establish that the alleged unlawful acts were material. The trial court granted the motion and rendered judgment for LabCorp. The court of appeals reversed and remanded, holding that (1) the Act's omissions provision did not require a showing of materiality and (2) there were fact issues as to the materiality of the alleged false statements and misrepresentations. LabCorp petitioned the Supreme Court for review.

In an opinion by Justice Hawkins, the Supreme Court reversed and held that the Act only imposes liability for material omissions. The Court explained that the Act does not repudiate the common-law principle that materiality is a required component of fraud claims, including those based on omissions. The Court also held that any alleged omissions, false statements, or misrepresentations were immaterial as a matter of law because LabCorp disclosed its billing practices to the State—including the purportedly unlawful conduct—yet the State continued paying LabCorp's claims without complaint. Therefore, summary judgment was proper.

Chief Justice Blacklock dissented. He would have held that the statutory text does not supply an objective materiality requirement for omissions but rather requires a showing of subjective causation.

Justice Busby also dissented, noting his view that LabCorp misreads the regulations at issue and emphasizing that the State is not estopped going forward from taking action against the alleged regulatory violations.

GG. WORKERS' COMPENSATION

1. Exclusive Jurisdiction

a) *Univ. of Tex. Rio Grande Valley v. Oteka*, 715 S.W.3d 734 (Tex. June 13, 2025) [23-0167]

In this personal-injury case, does the district court or the Division of Workers' Compensation decide whether an employee's injury was work-related for purposes of workers' compensation when the employer raises the issue by an exclusive-remedy affirmative defense?

A university professor was walking through a parking lot after

attending a commencement ceremony when she was struck by a vehicle driven by a university police officer. The professor sued the university for negligence. The university responded with an affirmative defense that workers' compensation benefits are the exclusive remedy because the injury occurred during the course and scope of her employment. The university then filed a plea to the jurisdiction, arguing that the Division had exclusive jurisdiction to determine the course-and-scope issue raised by the affirmative defense. The trial court denied the plea, and the court of appeals affirmed.

The Supreme Court affirmed. The Court noted the presumption in favor of the district court's jurisdiction. The Court also observed that there is no procedural mechanism in the Workers' Compensation Act to obtain a course-and-scope finding from the Division unless the employee files a compensation claim. Relying on the presumption, its prior cases, and the Act's text and structure, the Court held that the Division does not have exclusive jurisdiction to determine whether an injury occurred in the course and scope of employment when (1) the employer raises the issue outside the compensability context and (2) the employee's requested relief does not depend on any entitlement to benefits.

III. GRANTED CASES

A. ADMINISTRATIVE LAW

1. Commission on Environmental Quality

a) *Tex. Comm'n on Env't Quality v. S.A. Bay Estuarine Waterkeeper*, 714 S.W.3d 270 (Tex. App.—15th Dist. 2025), *pet. granted* (June 19, 2026) [25-0564]

This case concerns whether the Texas Commission on Environmental Quality erred in denying requests for a contested-case hearing and granting a "minor new source" permit.

Max Midstream, LLC applied to the TCEQ for a permit so it could expand its Seahawk Terminal, an oil storage and loading facility. Petitioners requested a contested-case hearing on the permit application. Individuals on whose behalf the requests were made claimed that they faced increased health risks and other harms from the expanded Seahawk facility. By statute, only "affected persons" are entitled to a contested-case hearing. The Commission concluded that the individuals in question were not affected persons, denied the requests for a contested-case hearing, and granted the permit.

Petitioners sued the Commission in district court, which reversed the Commission rulings denying the hearing requests and approving and issuing the permit. The district court remanded to the Commission for a contested-case hearing. The court of appeals reversed, holding that (1) substantial evidence supported the Commission's determination that Petitioners were not entitled to a contested-case hearing and (2) the court of

appeals lacked jurisdiction to review the merits of issuance of the permit.

Petitioners argue that the court of appeals applied the wrong legal standard in reviewing their requests for a contested-case hearing. They also argue that the court of appeals erred in concluding that it lacked jurisdiction to review the merits of the permit. The Supreme Court granted the petition for review.

2. Rulemaking

a) *Morath v. Tex. State Teachers Ass'n*, 717 S.W.3d 71 (Tex. App.—Austin 2025), *pet. granted* (June 12, 2026) [25-0527]

At issue in this case is the validity of an administrative rule promulgated by the Commissioner of Education.

Under the Education Code, Texas school districts that do not meet certain academic performance standards may avoid penalties by contracting with an "operating partner" to run the underperforming campus. The Code also enables the Commissioner of Education to adopt rules as necessary to implement the statute. Pursuant to that authority, the Commissioner adopted a requirement that "[t]he operating partner must have sole authority over the assignment of all district employees to the campus, including initial and final authority to approve the assignment of all district employees or contractors to the campus." The Texas State Teachers Association brought a declaratory judgment action and moved for summary judgment, arguing that the rule was invalid because it deprived teachers of their existing statutory rights. The trial court granted the motion. The court of appeals affirmed in relevant part, holding that the allocation of "sole" and "final" authority to the operating partner violated the statutory rights of teachers, particularly related to filing grievances and to appeal adverse decisions.

Commissioner Morath filed a petition for review. He argues that the court of appeals misconstrued the rule as granting authority over district employees at large instead of merely granting authority over district employee assignment. The Supreme Court granted the petition.

B. ATTORNEYS

1. Fees

a) *Bexar Appraisal Dist. v. Abasto Props. LLC*, ___ S.W.3d ___, 2025 WL 3533952 (Tex. App.—San Antonio 2025), *pet. granted* (June 19, 2026) [26-0060]

This property tax case concerns the appraisal of cold-storage condominiums and a jury's award of attorney's fees in favor of the property owners.

In 2018, the Bexar Appraisal District appraised individually owned cold-storage condominiums at a warehouse facility at $250,000 each. These appraisals more than doubled in 2019 and increased again in 2020. Owners of the condominiums sued the District claiming that it unequally appraised the property each year. The case proceeded to a jury trial. The jury found that the condominiums were not unequally appraised in 2018—affirming the District's original appraised value of $250,000 per unit—but found that the condominiums were unequally

appraised for 2019 and 2020. The jury also awarded the property owners attorney's fees under a provision of the Property Code stating that prevailing property owners "may be awarded" attorney's fees. The trial court rendered judgment on the jury's verdict.

The District appealed. After the court of appeals affirmed the trial court's judgment, the District petitioned for review in the Supreme Court. The District argues that the trial court treated a discretionary fee-shifting statute as a mandatory obligation to award attorney's fees and that the evidence did not support the jury's award of attorney's fees. It also argues that the trial court excluded relevant appraisal evidence. The Supreme Court granted the petition for review.

C. BANKRUPTCY

1. Exempt Property

a) *In re Canada*, 167 F.4th 280 (5th Cir. 2026), *certified question accepted* (Mar. 6, 2026) [26-0127]

This certified question from the Fifth Circuit asks whether an interest in a Texas limited liability company is exempt property in a federal bankruptcy proceeding.

William Canada declared bankruptcy and claimed that his 70% ownership interest in a Texas limited liability company is exempt from the bankruptcy estate. The trustee objected to this exemption, arguing that Texas law does not explicitly create such an exemption and that Texas courts have held that a membership interest in an LLC is non-exempt property. The bankruptcy court agreed with the trustee and denied the exemption, and the district court affirmed.

On appeal, the Fifth Circuit observed that the Texas Supreme Court has not answered the question of whether LLC membership interests are exempt property. It therefore certified the following question:

> Is an LLC membership interest exempt property in a federal bankruptcy proceeding, based on section 101.112 of the Texas Business Organizations Code?

The Supreme Court accepted the certified question and set it for oral argument.

D. CONTRACTS

1. Contractual Indemnity

a) *Deacero, S.A.P.I. de C.V. v. BNSF Ry. Co.*, 696 S.W.3d 212 (Tex. App.—Houston [14th Dist.] 2024), *pet. granted* (June 19, 2026) [24-0973]

The issue is whether an online indemnity term ostensibly incorporated by reference into a shipping contract was sufficiently conspicuous.

A BNSF employee was injured by a railcar carrying Deacero's goods. In the employee's suit against both the carrier and the shipper, BNSF filed a cross-claim seeking contractual indemnity from Deacero. On cross-motions for summary judgment, the defendants disputed whether the indemnity term was sufficiently conspicuous to permit risk shifting and whether Deacero had actual knowledge of the indemnification requirement. The trial court granted BNSF's motion and denied Deacero's.

The court of appeals affirmed the denial of Deacero's motion but reversed summary judgment for BNSF. The court held that the indemnity term was inconspicuous as a matter of law but fact issues about Deacero's actual knowledge precluded summary judgment for either party.

BNSF's petition for review contends that: (1) the court of appeals misapplied the conspicuousness test by focusing on the indemnity term's location and the shipping agreement's structure rather than the term's distinctive typeface; (2) if the provision is inconspicuous, the Court should realign Texas jurisprudence to conform with other jurisdictions that either decline to require conspicuousness for contracts between sophisticated parties or exempt non-UCC indemnity agreements; and (3) the court of appeals improperly relied on the online instrument's alleged inaccessibility because Deacero offered no evidence that the instrument was inaccessible. The Supreme Court granted the petition for review.

2. Damages

a) *Quantum Plus, LLC v. Hosp. Internists of Aus., P.A.*, ___ S.W.3d ___, 2025 WL 420213 (Tex. App.—Austin 2025), *pet. granted* (June 12, 2026) [25-0579]

The issues on appeal concern lost-profit damages, Texas's prohibition on the corporate practice of medicine, and attorneys' fees.

Quantum is the exclusive provider of hospital medicine for several hospitals. To staff those facilities, Quantum executed an at-will contract with Hospital Internists to supply physicians and other medical professionals. Hospital Internists subsequently terminated the contract and sued Quantum for breach, tortious interference, and conspiracy. The suit alleged that Quantum (1) violated Texas's prohibition on the corporate practice of medicine by exercising undue control over the physicians; (2) breached a nonsolicitation agreement; and (3) tortiously interfered with Hospital Internists' subcontracts with physicians and medical service groups. After securing a favorable jury verdict on all claims, Hospital Internists elected its remedies for conspiracy and noncompliance with the law. The trial court rendered judgment accordingly.

On appeal, Quantum secured a partial victory in the form of reduced tort damages. The court of appeals held that damages for conspiracy are limited to the amount awarded for the underlying tort. The court therefore modified the judgment to limit Hospital Internists' tort damages to the amount the jury awarded for tortious interference. The remainder of the judgment was affirmed.

Quantum's petition for review argues that: (1) lost profits are not recoverable under a terminable-at-will contract; (2) the jury charge employed a legally incorrect definition regarding the corporate practice of medicine; (3) Hospital Internists' election to recover on one breach-of-contract claim precluded an award of attorney's fees on the other; and (4) the court of appeals improperly rendered judgment awarding tortious-interference damages rather than remanding to allow Quantum to challenge the viability of the tortious-interference claims. The

Supreme Court granted the petition for review.

E. GOVERNMENTAL IMMUNITY

1. Contract Claims

a) *Edcouch-Elsa Indep. Sch. Dist. v. Comprehensive Training Ctr., LLC*, 732 S.W.3d 927 (Tex. App.—Corpus Christi–Edinburg 2024), *pet. granted* (Mar. 27, 2026) [24-0772]

This case concerns a school district's invocation of governmental immunity to defeat a breach of contract claim on the theory that the superintendent lacked authority to enter the contingent-fee contracts at issue.

Edcouch-Elsa Independent School District's school board delegated authority to the District's superintendent "to make budgeted purchases for goods or services," but board approval was required for budgeted purchases of $25,000 or more. The superintendent signed contingent-fee contracts for grant-writing and consulting services, contingent upon a successful grant application, with Comprehensive Training Center and ERI Funding Group. The District was awarded the grant, and the superintendent purportedly terminated the contracts without paying. Comprehensive and ERI sued the District for breach of contract, and the District filed a plea to the jurisdiction, which the trial court denied. The court of appeals reversed after determining that the superintendent lacked authority to enter into the contracts because the contracts were not "budgeted purchases" and thus were not properly executed.

Comprehensive and ERI petitioned for review and argue that the Supreme Court should adopt a rebuttable presumption of delegated authority for contingent-fee contracts and that fact questions remain as to whether the contracts cost $25,000 or more. The Supreme Court granted the petition.

2. Texas Tort Claims Act

a) *ACS State Healthcare, LLC v. M&M Orthodontics, PA*, 733 S.W.3d 43 (Tex. App.—Austin 2024), *pet. granted* (Mar. 27, 2026) [24-0802]

At issue in this case is whether interlocutory appellate jurisdiction exists, whether Conduent State Healthcare (formerly ACS) was an employee of the State under Texas law, and whether Conduent is entitled to derivative sovereign immunity.

Under a contract with the State, Conduent administered the Texas Medicaid program and was responsible for vetting prior-authorization requests. The federal government notified Texas of its intent to audit the State's prior-authorization process. With the threat of a federal clawback, the State initiated an administrative enforcement action against M&M Orthodontics, an approved Medicaid provider owned by the Malones. After years of litigation, both Conduent and the Malones agreed to settlements with the State, leaving M&M's claims against Conduent. Later, M&M moved for partial summary judgment, and Conduent filed a plea to the jurisdiction.

The trial court denied M&M's motion and Conduent's plea to the jurisdiction. The court of appeals

affirmed. It held that Conduent did not conclusively establish that it was not an independent contractor, and thus, not an agent of the State. In addition, the court found that derivative sovereign immunity did not apply to Conduent, as M&M's remaining claims are based on Conduent's own bad acts that were not directed by the State. A dissenting justice would have dismissed the appeal for want of jurisdiction.

The Supreme Court granted the petition for review.

b) *Leonard v. Dallas County*, ___ S.W.3d ___, 2025 WL 2430775 (Tex. App.—Dallas 2025), *pet. granted* (May 1, 2026) [26-0128]

This case concerns the emergency exception to governmental liability under the Texas Tort Claims Act.

Leonard was driving in bumper-to-bumper traffic in the righthand lane of a Dallas area highway at rush hour. Dallas County courtesy patrol officer McDonald was behind him. As part of his duties, Officer McDonald patrolled highways throughout the county to look for road hazards and assist drivers in need. As he was traveling behind Leonard, McDonald spotted a stopped or stalled vehicle several lanes to his left. McDonald claims that he activated his emergency lights and started to make his way over to the stopped vehicle. While doing so, he rear-ended Leonard's vehicle, and Leonard sued.

The TTCA's waiver of immunity does not apply to a claim arising "from the action of an employee while responding to an emergency call or reacting to an emergency situation" if other statutory criteria are met. The County filed a plea to the jurisdiction arguing that under this exception, it retained governmental immunity from Leonard's suit. The trial court granted the plea, but the court of appeals reversed. The panel majority reasoned that Leonard raised a fact issue about the exception's applicability by pointing to post-accident statements by McDonald in which he did not mention an emergency or stalled vehicle. One justice dissented, opining that Texas law requires the emergency exception to be construed broadly and that Leonard failed to carry his burden to negate its applicability.

The County's petition for review argues that the court of appeals narrowed the emergency exception by anchoring its analysis to the words used by McDonald in the wake of the accident, rather than the objective circumstances. The Supreme Court granted the petition.

c) *Tex. Dep't of Transp. v. Medina*, ___ S.W.3d ___, 2025 WL 1037266 (Tex. App.—Houston [14th Dist.] 2025), *pet. granted* (June 12, 2026) [25-0429]

This case concerns the scope of the Texas Tort Claims Act's partial waiver of sovereign immunity for harms caused by a "special defect" as applied to pedestrians.

Before sunrise, Alex Medina's car broke down along Beltway 8, so he walked to a nearby store. Days later, searchers found his body in pipes underneath the street. He had fallen into an uncovered drainage opening in a grassy right-of-way about fifteen feet from the road. The opening, which

lacked a protective grate, was located near a worn pedestrian footpath extending from a nearby sidewalk. Medina's estate sued the Texas Department of Transportation, alleging that the uncovered opening was a "special defect" that waived the State's sovereign immunity. TxDOT filed a plea to the jurisdiction, arguing that the condition was not a special defect.

The trial court denied the plea, but the court of appeals reversed and dismissed the case, holding that the drainage opening was not a special defect because it was off the roadway and did not pose a risk to ordinary users following the normal course of travel. The court emphasized that special defects are a narrow category limited to conditions similar to excavations or obstructions on roads.

Medina petitioned for review, arguing that off-road conditions may qualify as special defects if they are sufficiently near the roadway and pose an unexpected danger to ordinary users, including pedestrians using adjacent travel corridors. He also argues that the uncovered drainage opening is analogous to an excavation and presented a concealed, dangerous condition. TxDOT responds that special defects must be located on roadways and, in any event, that this condition did not endanger ordinary users of the road. The Supreme Court granted the petition.

d) *Tex. Tech Univ. Health Scis. Ctr.–El Paso v. Mohrman*, ___ S.W.3d ___, 2025 WL 3713959 (Tex. App.—El Paso 2025), *pet. granted* (June 19, 2026) [26-0085]

At issue in this case is whether the common-law mailbox rule applies to the Texas Tort Claims Act's notice provision, which entitles the government to receive notice of a claim against it not later than six months after the alleged incident giving rise to the claim occurred.

Philip Mohrman's husband was treated by physicians employed by Texas Tech University Health Sciences Center–El Paso while hospitalized. Mohrman's husband allegedly suffered an adverse reaction to an antibiotic and was given more of the antibiotic, resulting in complications that led to his death. Mohrman brought medical-negligence claims against Texas Tech and the hospital. Texas Tech filed a motion to dismiss and a plea to the jurisdiction, asserting that Mohrman failed to comply with the Act because Texas Tech received notice of his claim more than six months after the alleged incident. Mohrman submitted a declaration in which his former counsel stated that notice letters were timely sent to Texas Tech using the postal service.

The trial court denied Texas Tech's plea to the jurisdiction and motion to dismiss. The court of appeals affirmed, holding that the common-law mailbox rule applies to the Act, so Mohrman's evidence that a letter was mailed constitutes evidence from which receipt by Texas Tech may be presumed.

Texas Tech filed a petition for review, arguing that the timeliness of the notice is determined by the date it is received, and not the date it is sent, so immunity is not waived unless there is some evidence that notice was actually received in time. The Supreme Court granted the petition for review.

3. Ultra Vires Claims

a) *ENGIE IR Holdings LLC v. Hancock*, ___ S.W.3d ___, 2025 WL 2670278 (Tex. App.—15th Dist. 2025), *pet. granted* (June 19, 2026) [25-1093]

At issue is whether a tax-limitation applicant pleaded a viable ultra vires claim based on the Comptroller's withdrawal of a certificate approving the application after the applicable regulatory review period ended.

The Texas Economic Development Act authorized school districts to offer qualifying businesses a property-tax incentive in exchange for specified investments. The Act charged the Comptroller with reviewing applications and proposed agreements. ENGIE Solar applied for a tax limitation, and while its application was pending, it merged into ENGIE IR. The Comptroller was not notified of the merger and subsequently issued a certificate approving the application. The school district then submitted a proposed tax-limitation agreement for review. The Comptroller responded that ENGIE Solar no longer appeared to be a Texas taxpayer, but he did not amend or withdraw the certificate during the twenty-business-day review period prescribed by agency rule. After the school district and ENGIE IR executed the agreement, the Comptroller notified the parties that he was withdrawing the certificate. ENGIE IR and the school district sued, alleging the Comptroller's withdrawal was ultra vires because his authority to do so had expired. The Comptroller filed a plea to the jurisdiction, which the trial court granted.

A divided court of appeals affirmed. The court held that the withdrawal, even if unauthorized, could not support an ultra vires claim because (1) the certificate ceased to be valid when the merger rendered the application's taxpayer information inaccurate and (2) the executed agreement was invalid without the Comptroller's approval. The dissenting justice would have held that the pleadings stated a viable ultra vires claim based on the unauthorized withdrawal, regardless of any alleged defect in the application or agreement.

ENGIE IR's petition for review contends that (1) the Comptroller lacked authority to withdraw the certificate after the review period expired; (2) the merger did not invalidate the certificate because ENGIE IR was both an eligible taxpayer under the Act and ENGIE Solar's successor in interest; (3) the agreement was valid because the Act required only that the agreement be in a Comptroller-approved form, not that the Comptroller separately approve it; and (4) due process entitled the parties to notice and an opportunity to be heard before the certificate was withdrawn. As an alternative ground for affirmance, the Comptroller argues that the petitioner failed to exhaust available administrative

remedies. The Supreme Court granted the petition for review.

F. INSURANCE

1. Policies/Coverage

a) *Lexington Ins. Co. v. Exxon Mobil Corp.*, ___ S.W.3d ___, 2025 WL 996424 (Tex. App.—Beaumont 2025), *pet. granted* (June 12, 2026) [25-0410]

This case concerns whether an insurance policy covers personal-injury claims.

Two Exxon companies own and operate a Beaumont refinery. Brock Services provided scaffolding services for a construction project at the refinery. Brock had an umbrella policy issued by Lexington. Three Brock employees were injured at the refinery and sued Exxon, asserting common-law tort claims.

Exxon brought a declaratory judgment action claiming coverage as additional insureds under the Lexington policy. Exxon settled the personal-injury claims and continued to litigate coverage. Lexington argued that two exclusions in the policy barred coverage: one that excludes coverage for obligations of the insured under a workers' compensation law or any similar law; and one that excludes coverage for bodily injury to an insured's employee arising out of employment by the insured or performing duties related to the conduct of the insured's business. Lexington argued that the exclusions applied because Exxon was a statutory employer of the injured workers under the Labor Code.

On cross-motions for summary judgment, the trial court ruled that the exclusions did not apply. The court of appeals agreed with Lexington that the second exclusion applied and rendered a take-nothing judgment against Exxon. The Supreme Court granted Exxon's petition for review.

G. JURISDICTION

1. Ecclesiastical Abstention

a) *United Methodist Rio Tex. Conf. Bd. of Trs. v. Alice First Methodist Church*, ___ S.W.3d ___, 2025 WL 3019197 (Tex. App.—San Antonio 2025), *pet. granted* (June 12, 2026) [25-1086]

This case raises questions about the ecclesiastical-abstention doctrine.

The Book of Discipline sets out matters of doctrine, policy, and procedures for the United Methodist Church. In 2019, the Church amended the Discipline to change certain policies related to ordination, marriage, and sexuality and to set out procedures governing local congregations' disaffiliation from UMC based on disagreements with those policies. After a group of churches in the Rio Texas Conference voted to disaffiliate, the churches' counsel informed the Conference that the churches would retain all their real and personal property but would not comply with certain terms required by the Discipline, such as signing a disaffiliation agreement and paying unfunded pension amounts.

The Conference sued the local churches for a declaratory judgment that they must comply with all the Discipline's disaffiliation procedures. The churches filed a plea to the jurisdiction, arguing that the trial court lacked subject-matter jurisdiction over the suit

under the ecclesiastical-abstention doctrine. The trial court granted the plea and dismissed the suit. The court of appeals affirmed, reasoning that because the Discipline is a doctrinal and church-governance document, and courts cannot resolve the parties' dispute without interpreting it, adjudication of the dispute risks judicial entanglement with ecclesiastical matters.

On petition for review, the Conference argues that the disaffiliation requirements that are the subject of the suit are entirely secular, and that, therefore, the suit can be decided through application of neutral principles of law without addressing ecclesiastical issues. Alternatively, the Conference argues that even if the ecclesiastical-abstention doctrine applies, it is entitled to judgment because it, the higher ecclesiastical authority, has determined that the local churches are obligated to pay the disputed pension payments. The Supreme Court granted the petition.

2. Standing

a) *Int'l Bhd. of Elec. Workers, Loc. 278 v. Corpus Christi Indep. Sch. Dist.*, ___ S.W.3d ___, 2024 WL 4982139 (Tex. App.—Corpus Christi–Edinburg 2024), *pet. granted* (May 29, 2026) [25-0182]

At issue in this case is whether local workers have taxpayer standing to challenge school board members' determination of the prevailing wage rate for construction projects within the school district.

Corpus Christi Independent School District's school board voted to approve prevailing wage rates for construction projects within the school district based in part on surveys of wages in neighboring counties. A union of electrical workers and individual electrical workers sued the board and its members alleging that the determined prevailing wage rate improperly relied on data outside the school district in violation of the Government Code.

The trial court granted summary judgment for the school board and its members. The court of appeals affirmed in part and reversed in part. The court reversed as to the individual electrical workers' ultra vires claims, holding that they had taxpayer standing to challenge the board members' prevailing wage rate determination.

The board members filed a petition for review, asserting that the electrical workers do not have taxpayer standing because they have not tied their claim to any concrete and specific illegal expenditure. They insist that speculative expenditures are insufficient to invoke taxpayer standing. Furthermore, they contend that prevailing wage rate determinations can take account of wages in neighboring counties and, in the alternative, prevailing wage rate determinations are not subject to judicial review.

The electrical workers argue that because the prevailing wage rate determination is unlawful, all contract work paid and negotiated under that determination is illegal. They further argue that prevailing wage rate determinations must be based solely on a survey of wages within the corresponding political subdivision and that judicial review of the procedure used to make a prevailing wage rate

determination is not barred. The Supreme Court granted the petition.

H. JUVENILE JUSTICE

1. Discretionary Transfer

a) *In re L.H.*, 733 S.W.3d 55 (Tex. App.—Houston [1st Dist.] 2024), *pet. granted* (Mar. 27, 2026) [25-0229]

At issue in this case is whether the court of appeals properly concluded there was insufficient evidence to support a juvenile's transfer to criminal district court after his eighteenth birthday.

The State charged L.H. with murder in juvenile court when he was sixteen years old. Two days before L.H. turned eighteen, the juvenile court denied the State's request to waive its jurisdiction and transfer the case to district court. The State later asked the juvenile court to transfer the case under a separate provision of the Juvenile Justice Code governing persons over eighteen. Among other things, that provision requires the juvenile court to find that it was not practicable to proceed in juvenile court before L.H. turned eighteen through no fault of the State. The juvenile court granted the State's request and transferred the case to district court. The court of appeals reversed and remanded, holding that there was insufficient evidence to support the juvenile court's finding.

The State petitioned for review. It argues that the court of appeals erroneously interpreted the phrase "practicable to proceed." The State also argues that the court improperly omitted events after L.H.'s eighteenth birthday from the practicability analysis. The Supreme Court granted the petition for review.

I. NEGLIGENCE

1. Duty

a) *In re Simon Prop. Grp., L.P.*, ___ S.W.3d ___, 2025 WL 3244457 (Tex. App.—Dallas 2025), *argument granted on pet. for writ of mandamus* (Mar. 27, 2026) [26-0023]

At issue in this case is whether an outlet shopping mall and its corporate affiliates are entitled to mandamus relief from the trial court's denial of their motion to dismiss various tort claims arising from a mass shooting at the mall.

In May 2023, a lone gunman opened fire at an outlet mall in Allen, Texas, killing eight people and wounding seven others. The outlet mall, owned by Simon Property Group, contracted with Allied Security Services to provide security at the mall. Victims and family members of those who died sued Simon, Allied, and the owner of the nearby hotel where the gunman prepared for his attack. They asserted various negligence and premises liability claims, alleging that Simon was aware of the risk of a mass shooting at the mall but lacked adequate security measures to protect shoppers from such an attack. Simon moved to dismiss the claims under Rule 91a of the Texas Rules of Civil Procedure. The trial court denied the motion.

Simon sought mandamus relief in the court of appeals. After the court denied that request, Simon filed a petition for writ of mandamus in the Supreme Court, arguing that it has no duty to protect shoppers from

unforeseeable criminal conduct like a premeditated mass shooting. The Court granted argument on the petition for writ of mandamus.

2. Independent Contractors

a) *Martinez v. Baird/Williams Constr. II, Ltd.*, ___ S.W.3d ___, 2025 WL 3038065 (Tex. App.—Austin 2025), *pet. granted* (June 19, 2026) [25-1097]

This case concerns the amount of control over the means, methods, or details of work that is sufficient for a general contractor to be liable for injuries suffered by a subcontractor's employees.

Hutto Independent School District hired general contractor Baird/Williams to renovate four elementary school campuses. Baird/Williams hired subcontractor Amos Electric Supply to do the electrical work. The subcontract generally put Amos in charge of completing the work and ensuring a safe environment. The contract also said that Amos's work would be completed under the direction and to the satisfaction of Baird/Williams.

Amos hired Martinez to replace light fixtures at one of the schools. While changing the lights, Martinez fell off a stepladder, sustaining significant injuries. He sued Baird/Williams for negligence and gross negligence. Baird/Williams moved for summary judgment, arguing that it owed Martinez no legal duty because it lacked contractual or actual control over his work. The trial court granted the motion and rendered a take-nothing judgment in favor of Baird/Williams.

The court of appeals reversed. It reasoned that the contract gave Baird/Williams a right to control the manner and means of Amos's work—including safety measures governing the use of ladders—and that as a result, Baird/Williams owed Amos's employees a duty of care.

Baird/Williams petitioned the Supreme Court for review. It argues that the court of appeals read a provision of the contract out of context and that the contract, taken as a whole, established that Amos had sole responsibility for its employees' safety and the method and means by which work would be performed. The Supreme Court granted the petition.

J. PROBATE: WILLS, TRUSTS, ESTATES, AND GUARDIANSHIPS

1. Will Construction

a) *Est. of Long*, ___ S.W.3d ___, 2025 WL 1233212 (Tex. App.—Texarkana 2025), *pet. granted* (May 29, 2026) [25-0601]

The issues in this case are whether the court of appeals erred in declining to consider evidence tending to show that certain trusts were continued rather than terminated and whether bequests to the trusts failed because the trusts had terminated by their own terms before the testator died.

In the 1950s, a couple created trusts for each of their four sons. One of those sons, Charles Edward Long, later executed a will that, in relevant part, left the residue of his estate to his brothers' trusts, should the beneficiaries of those trusts survive him. Charles

Long died in 2020 and was survived by two of his brothers and by Barbara Zazulak, his only child.

One of Charles Long's brothers filed the will for probate, and the trial court ordered the will admitted to probate. Zazulak filed a petition to set aside that order, and the parties filed cross-motions for summary judgment. The court granted Zazulak's motion, denied the Long brothers' motion, found that Zazulak is Charles Long's heir, and declared that the entire residue of Charles Long's estate passes to Zazulak.

The court of appeals affirmed. According to the court, the Long brothers' trusts had terminated by their own terms before Charles Long's death. The court held that the will's text was unambiguous, and it declined to consider evidence that may have shown that the trusts were continued rather than terminated.

The Supreme Court granted the Long brothers' petition for review and set the case for oral argument.

K. PROCEDURE—APPELLATE

1. Temporary Orders

a) *Drusch v. Borchers*, ___ S.W.3d ___, 2026 WL ___ (Tex. App.—15th Dist. 2026), *argument granted on pet. for writ of mandamus* (June 19, 2026) [26-0107]

At issue in this case is whether a stay of trial court proceedings is required during the pendency of an interlocutory appeal regarding a motion to compel arbitration.

Drusch is the CEO and majority owner of TrueAero Group, LLC, which is the sole member of TrueAero, LLC. Borchers is a former employee of TrueAero. During the course of his employment, Borchers entered into a number of contracts with Drusch and his employer, some of which contained arbitration agreements. Borchers ultimately sued Drusch and TrueAero over a promissory note and security agreement. Drusch and TrueAero sought to compel arbitration.

The Business Court denied the motion, reasoning that the operative contract did not contain an arbitration provision. Drusch and TrueAero filed an interlocutory appeal challenging that order. They also filed with the court of appeals a motion to stay trial court proceedings during the interlocutory appeal. The court of appeals denied that motion.

Drusch and TrueAero filed a mandamus petition in the Supreme Court of Texas. They argue that proceedings in the trial court must be stayed while their motion to compel arbitration is being appealed. They assert that during an interlocutory appeal, trial courts lack jurisdiction over the subject of that interlocutory appeal and cannot act in a manner that would impede the relief requested in the court of appeals. When the subject of the interlocutory appeal is whether the case belongs in court or arbitration, Drusch and TrueAero reason that any act by the trial court inhibits their requested relief—that the case be sent to arbitration.

Borchers insists that Texas statutory law has no requirement that trial court proceedings be stayed while a motion to compel arbitration is on interlocutory appeal. Even if such a requirement did exist, Borchers argues that

there should be an exception for frivolous arguments and that Drusch's and TrueAero's arbitration argument is frivolous. The Supreme Court granted argument on the petition for writ of mandamus.

L. PROCEDURE—PRETRIAL

1. Certificates of Merit

a) *Aran & Franklin Eng'g, Inc. v. Zody*, 733 S.W.3d 72 (Tex. App.—Corpus Christi–Edinburg 2025), *pet. granted* (Mar. 27, 2026) [25-0374]

This professional negligence case concerns whether a third-party petition in a construction dispute complied with the certificate of merit requirements found in Civil Practice & Remedies Code Chapter 150.

As a general contractor, New Millennium Construction hired Aran & Franklin to serve as its Appointed Qualified Inspector. The property owners later sued New Millennium for professional negligence, and New Millennium brought a third-party claim against Aran & Franklin. Aran & Franklin moved to dismiss the claim for New Millenium's failure to attach a certificate of merit affidavit. The trial court denied the motion, and the court of appeals reversed. On remand, and after New Millennium provided an affidavit to support its claim, the trial court dismissed the case without prejudice.

New Millennium then refiled the third-party claim, attaching another certificate of merit from a different affiant. Aran & Franklin again moved to dismiss, arguing that the affiant was not competent to opine on the work performed. The trial court denied the motion to dismiss. The court of appeals again reversed, holding that the first certificate of merit was not filed contemporaneously with the second third-party action and thus is ineffective. The court also rejected the second certificate of merit because the court concluded that the affiant was not qualified to opine on Aran & Franklin's work.

New Millennium filed a petition for review, arguing that the first certificate of merit on file with the trial court was contemporaneously filed with its second petition and the affiant of its second certificate of merit is qualified to opine about the work performed. The Supreme Court granted review.

b) *Moore v. Stanley Spurling & Hamilton, Inc.*, ___ S.W.3d ___, 2026 WL 472409 (Tex. App.—Houston [14th Dist.] 2026), *pet. granted* (June 19, 2026) [26-0307]

At issue is whether a plaintiff seeking a statutory extension of time to file a certificate of merit must allege in the first-filed petition that time constraints from an impending limitations deadline prevented contemporaneous filing of the certificate.

Candace Moore sued multiple defendants alleging a decorative facade collapsed and injured her. Days before limitations expired, Moore amended her petition to add claims against an engineering firm involved with repairing the facade. When claims involve the rendition of licensed professional services, the Civil Practice and Remedies Code requires the contemporaneous filing of a certificate of merit. But if limitations will expire within ten days of

filing suit, a thirty-day extension is permitted if the claimant asserts that time constraints prevented the certificate's timely preparation. Moore sought to invoke the extension within thirty days after suing the engineering firm, but the firm moved for dismissal, arguing that the time-constraint allegations had to be made in the petition that first asserted claims against it. The trial court dismissed Moore's claims against the firm with prejudice.

The court of appeals reversed, holding that Moore was entitled to an extension because the lack-of-time allegation may be made within the statute's thirty-day extension period.

The engineering firm's petition for review argues that the court of appeals' decision conflicts with this Court's precedents and creates a split of authority interpreting the statute. The firm contends that the statute requires the plaintiff to make the requisite allegation when the professional is first sued and that a later-filed certificate of merit cannot cure the omission. Moore responds that she complied with the statute because it does not specify when, how, or in what form the allegation must be made, so long as it is made within the thirty-day extension period. The Supreme Court granted the petition for review.

2. Discovery

a) *In re Bosco*, ___ S.W.3d ___, 2025 WL 1005620 (Tex. App.—Austin 2025), *argument granted on pet. for writ of mandamus* (Mar. 27, 2026) [25-0421]

The issue is whether the trial court abused its discretion when it ordered a defendant to allow the plaintiffs to enter and inspect her property.

Pamela Bosco, the owner of a fourteen-acre residential property, was sued by her neighbors, the Bierschwales, for allegedly violating deed restrictions regarding the number and types of animals on her property and the location of certain structures. The Bierschwales served a request for entry and inspection of Bosco's property under Rule of Civil Procedure 196.7. After Bosco objected, the Bierschwales moved to compel the requested inspection. The trial court ultimately ordered the inspection.

Bosco seeks mandamus relief, arguing that the Bierschwales' request does not comply with the heightened standard recognized by various courts for obtaining inspection of a residential property. Bosco also argues that the information the Bierschwales seek from the inspection is obtainable from other sources that are more convenient, less burdensome, or less expensive. The Bierschwales respond that Rule 196.7 imposes no special requirements when seeking inspection of a party's property and that the inspection order imposed reasonable limitations and therefore was within the court's discretion. The Court granted argument on the petition for writ of mandamus.

b) *In re Hughey*, ___ S.W.3d ___, 2025 WL 1523269 (Tex. App.—Beaumont 2025), *argument granted on pet. for writ of mandamus* (May 29, 2026) [25-0463]

At issue in this case is whether the trial court abused its discretion in striking the use of a non-

stenographically recorded, artificial-intelligence-generated deposition transcript.

Patrick Hughey sued Reddico Construction for wrongful termination. During discovery, Hughey noticed a remote electronic oral deposition of Reddico's corporate representative over Skribe.ai. The corporate representative and her counsel accepted Skribe.ai's terms of services before attending the deposition. The corporate representative then appeared and did not object. The deposition proceeded, and Skribe.ai created a written transcript of the non-stenographic recording for the parties. The corporate representative reviewed the transcription, made some corrections, and signed a notary-witnessed errata sheet. Hughey later filed a motion to compel additional depositions and served deposition notices. Reddico moved to quash the depositions and to preclude Hughey from using the written transcription of the previous deposition. The trial court granted Reddico's motion, quashed future non-stenographic depositions, and struck and barred the use of the corporate representative's testimony prepared by use of Skribe.ai.

Hughey sought mandamus relief, which the court of appeals denied. The court reasoned that the trial court only struck the written transcription prepared by means other than a certified court reporter and did not exclude the video deposition from evidence or preclude Hughey from playing that video. The court concluded that Hughey therefore had sufficient time to engage a certified court reporter to transcribe the video deposition.

Hughey filed a mandamus petition in the Supreme Court, and the Court granted argument on the petition.

c) *In re Old Dominion Freight Line, Inc.*, ___ S.W.3d ___, 2026 WL 777182 (Tex. App.—Dallas 2026), *argument granted on pet. for writ of mandamus* (June 19, 2026) [26-0295]

At issue in this case is whether the trial court abused its discretion in ordering a party to produce the personnel files of the supervisors of a truck driver who was involved in a collision.

Old Dominion's employee Daniel Ortega was involved in a vehicle collision with Christina Solano. Solano sued Old Dominion and Ortega, asserting claims of ordinary and gross negligence. The trial court granted a motion to compel and ordered Old Dominion to produce personnel records of two of Ortega's supervisors. Old Dominion filed a petition for writ of mandamus in the court of appeals challenging that order. The court denied the petition, with one justice dissenting.

Old Dominion then sought mandamus relief in the Supreme Court. It argues that nothing in the personnel files is relevant to whether Ortega caused the collision. Instead, the files contain private matters of nonparties. Old Dominion argues that the discovery order is a fishing expedition that is not narrowly tailored.

Solano responds that the single discovery request at issue here is tailored to obtain information relevant to her claim that Old Dominion was grossly negligent in its training and

supervision of Ortega. Solano argues that she can pursue that claim despite Old Dominion's stipulation that Ortega was acting in the course and scope of his employment at the time of the collision. The Supreme Court set the case for oral argument.

d) *In re Tex. Dep't of Fam. & Protective Servs.*, ___ S.W.3d ___, 2025 WL 1698731 (Tex. App.—Austin 2025), *argument granted on pet. for writ of mandamus* (June 19, 2026) [25-0663]

At issue is whether a probate court judge abused his discretion by permitting a forensic computer examiner to search through a State-owned database containing confidential records.

To support a statute of limitations defense, defendants in a probate proceeding subpoenaed the Texas Department of Family and Protective Services, a nonparty, for investigatory records. DFPS produced some redacted documents but otherwise maintained that the requested records had been purged pursuant to DFPS's records-retention policy. The defendants filed a motion to compel and to disclose confidential information. After a hearing on the motion, the probate court judge sua sponte ordered DFPS to allow a forensic computer examiner to "conduct a diligent search through" DFPS's database and retrieve the requested records. The court of appeals denied mandamus relief, and DFPS filed a mandamus petition in the Supreme Court.

DFPS argues that the probate court judge improperly granted a private third party unfettered access to DFPS's database. DFPS asserts that because it is impossible to constrain a third party's access in the database to only relevant documents, the examiner would necessarily be exposed to highly sensitive and statutorily confidential information pertaining to abuse of children, the elderly, and people with disabilities. According to DFPS, the judge improperly granted unrequested relief and violated statutory directives, various Texas Rules of Civil Procedure, and this Court's ruling in *In re Weekley Homes, L.P.*, 295 S.W.3d 309 (Tex. 2009). Real Party in Interest Denny (one of the probate court defendants) argues that appointing the examiner to retrieve the documents at issue was a proper exercise of the judge's statutory authority. The Supreme Court granted argument on the petition for writ of mandamus.

3. Rule 91a

a) *In re Ford Motor Co.*, ___ S.W.3d ___, 2025 WL 2646870 (Tex. App.—Houston [1st Dist.] 2025), *argument granted on pet. for writ of mandamus* (June 12, 2026) [25-0865]

The issue in this case is whether the trial court abused its discretion in denying Ford's Rule 91a motion to dismiss.

Brian Cweren visited a Ford dealership to obtain repairs for his vehicle. After the dealership performed various repairs, Cweren inquired about the necessity of one of the repairs, which was allegedly performed pursuant to Ford's advice. During one of his visits to the dealership, Cweren was allegedly assaulted by a dealership

employee. Cweren sued Ford, the dealership, and three dealership employees for breach of contract, fraud, DTPA violations, and assault. Ford filed a motion to dismiss under Texas Rule of Civil Procedure 91a. The trial court denied Ford's motion, and the court of appeals denied mandamus relief.

Ford sought mandamus relief, arguing that Cweren's claims against it fail because it did not perform any repairs on Cweren's vehicle and had no interaction with Cweren. Moreover, Ford asserts, it is statutorily barred from controlling an independent dealership. The Supreme Court granted oral argument on the petition for writ of mandamus.

b) *In re Liberty Cnty. Mut. Ins. Co.*, ___ S.W.3d ___, 2025 WL 2646868 (Tex. App.—Houston [1st Dist.] 2025), *consolidated for oral argument with In re ClaimTECH Sols.*, ___ S.W.3d ___, 2025 WL 2646871 (Tex. App.—Houston [1st Dist.] 2025), *argument granted on pets. for writ of mandamus* (June 12, 2026) [25-0880, 25-0932]

In these original proceedings, an insurer and its claims administrator seek mandamus relief from orders denying their Rule 91a motions to dismiss a third-party claimant's lawsuit alleging damages from the insurer's settlement of her medical bills.

After being injured in an automobile accident, the claimant sued the other driver and filed a claim with the other driver's insurer. During the claims-handling process, the insurer's claims administrator negotiated lower payments for the claimant's medical bills with the treating hospital, and the insurer paid the negotiated amounts. Alleging that this settlement diminished the value of her potential recovery in her suit against the other driver, the claimant sued the insurer and claims administrator under various tort and contract theories. The insurer and claims administrator moved to dismiss the claims under Rule 91a, arguing the claims presented no justiciable controversy and lacked any basis in law or fact. The trial court denied the motions, and the court of appeals summarily denied mandamus relief.

In the Supreme Court, the insurer and claims administrator argue that: (1) no justiciable controversy exists because the claimant assigned her rights in the medical bills to the hospital; (2) Texas law does not permit third-party claimants to directly sue an insurer until the insured's liability has been established; (3) the claims are not ripe because the alleged injuries are speculative; (4) Texas insurers have a legal right to negotiate and pay a claimant's medical bills during the claims-handling process; and (5) the pleadings provide no basis in law or fact for essential elements of the asserted causes of action. The Supreme Court granted argument on the mandamus petitions.

4. Sanctions

a) *In re Delta Equine Ctr., Inc.*, ___ S.W.3d ___, 2025 WL 1189169 (Tex. App.—Tyler 2025), *argument granted on pet. for writ of mandamus* (May 29, 2026) [25-0340]

This mandamus proceeding concerns a trial court's pre-judgment sanction against counsel.

In the underlying case, Robyn Herring brought a bailment action and related claims against Delta Equine after Herring's horse was allegedly injured under Delta Equine's care. One exhibit offered by Herring during the jury trial included a text message that mentioned "insurance." Delta Equine's counsel later raised the text message with a witness. Herring immediately moved for a mistrial, which the trial court granted. Following a hearing, the trial court ordered Delta Equine's counsel to pay a pre-judgment sanction of $126,590.78 for fees to be incurred for a new trial. The trial court found that the mention of insurance violated a limine order and that the sanction could be imposed before final judgment because it would not impair Delta Equine's access to the courts.

Delta Equine sought mandamus relief at the court of appeals, arguing that the sanctions order was an abuse of discretion because there was no insurance limine order and because Delta Equine cannot otherwise be sanctioned for examining a witness about an exhibit in evidence. Delta Equine also argued that the pre-judgment sanction improperly requires it to fund Herring's litigation. The court of appeals denied mandamus relief, determining that the appellate remedy is adequate because Delta Equine did not demonstrate that the pre-judgment sanction impairs its access to the courts.

Delta Equine seeks mandamus relief from the Supreme Court on similar grounds to those raised at the court of appeals. The Supreme Court granted argument on the petition for writ of mandamus.

5. Sufficient Pleadings

a) *In re Morningstar Oil & Gas, LLC*, ___ S.W.3d ___, 2025 WL 1699115 (Tex. App.—Fort Worth 2025), *argument granted on pet. for writ of mandamus* (June 19, 2026) [25-0557]

This mandamus concerns the pleading requirements for demand futility in a suit on behalf of a limited partnership under Delaware law.

Morningstar brought a suit for declaratory relief against its former officer Vennerberg seeking to establish that it owed Vennerberg no compensation after his termination. Vennerberg filed counterclaims, including derivative claims on behalf of Morningstar against its co-founder and general partner, and asserted that pre-suit demand was futile. Morningstar filed special exceptions, which the trial court sustained as to the demand futility allegations. After Vennerberg repleaded, Morningstar again filed special exceptions that the trial court overruled.

Morningstar sought mandamus relief, arguing that Vennerberg must plead futility as to the directors of Morningstar's general partner—not the general partner itself—and failed to adequately do so. Morningstar contends that the pleading statute

Vennerberg relied on to plead futility as to the general partner was abrogated by amendments to another statute permitting a general partner to delegate all powers without its conflicts imputing to the delegates. The Supreme Court granted argument on the petition for writ of mandamus.

M. PROCEDURE—TRIAL AND POST-TRIAL

1. Directed Verdicts

a) *Chamberlain, Hrdlicka, White, Williams & Aughtry, P.C. v. ESL Ventures, LLC*, ___ S.W.3d ___, 2024 WL 3862810 (Tex. App.—Houston [1st Dist.] 2024), *pet. granted* (June 12, 2026) [24-0825]

This case concerns the scope of a directed verdict in a breach-of-contract suit.

ESL Ventures contracted with Chamberlain to consult on how Chamberlain could reduce its operating costs. Under the contract, ESL would provide its consulting services in three phases. The contract allowed Chamberlain to terminate the contract before all three phases were complete but imposed a different termination fee depending on the phase in which termination occurred. It is undisputed that Chamberlain terminated the contract early and that it did not pay a fee. But the parties dispute whether Chamberlain breached the second-phase clause or the third.

The trial court granted ESL Ventures' motion for directed verdict on Chamberlain's liability but did not specifically state which one of the three clauses of the termination-fee provision that Chamberlain breached. The parties dispute the clause on which directed verdict was granted. ESL Ventures' oral motion for directed verdict centered around the second-phase clause, but the jury (which was asked to decide only the amount of damages, not the theory of liability) returned a verdict for an amount consistent with only the third-phase clause.

The court of appeals affirmed. It held that the trial court's ruling was ambiguous as to which clause of the termination-fee provision Chamberlain breached. The court then looked to the rest of the record to determine the scope of the ruling. It held that both the jury charge and the parties' closing arguments left open the possibility that the jury could award damages in an amount consistent with the third-phase clause, so the directed verdict must have permitted such recovery.

Chamberlain petitioned the Supreme Court for review, arguing that the court of appeals erred in interpreting the scope of the directed verdict based on the entire record rather than only the ground stated in ESL Ventures' motion. Chamberlain also argues that the phase in which it terminated the contract implicates the question of liability, not the amount of damages. As a result, Chamberlain contends that the court of appeals should have held that the trial court granted a directed verdict on liability under the second-phase clause and that the verdict did not support the third-phase damages award. The Supreme Court granted the petition.

N. REAL PROPERTY

1. Easements

a) *West Harbour, LLC v. Orleans Harbour Homeowners Ass'n*, ___ S.W.3d ___, 2024 WL 4850326 (Tex. App.—Houston [14th Dist.] 2024), *pet. granted* (May 29, 2026) [24-1063]

This case concerns the existence of an easement by estoppel, the transfer of title by adverse possession, and the mootness of a declaratory-judgment claim.

Orleans Harbour Homeowners Association and West Harbour, LLC own adjoining properties. Orleans Harbour asserts interests in two tracts of West Harbour's property. With respect to the first tract, Orleans Harbour claims that it has an easement by estoppel because Orleans Harbour built out and landscaped the tract for several decades. With respect to the second tract, Orleans Harbour claims to own it by adverse possession because Orleans Harbour built a driveway over the tract and has used the driveway for several decades. West Harbour counterclaimed for a declaratory judgment establishing the correct property line.

Orleans Harbour filed a plea to the jurisdiction, arguing that the counterclaim was moot because the parties had agreed to the correct property line. The trial court granted the plea. After trial, the trial court rendered judgment on the jury's verdict, granting Orleans Harbour an easement by estoppel over the first tract and title to the second tract by adverse possession.

The court of appeals reversed on all three claims. It held that there was legally insufficient evidence to support the trial court's finding of an easement by estoppel; that there was factually insufficient evidence to support the trial court's finding of adverse possession; and that West Harbour's declaratory-judgment counterclaim was not moot because the property line was still being disputed at trial.

Orleans Harbour petitioned the Supreme Court for review, arguing that legally and factually sufficient evidence supported the trial court's finding of an easement by estoppel and that the court of appeals erred in holding that a vendor–vendee relationship is an element of an easement by estoppel. Orleans Harbour also argues that factually sufficient evidence supported the trial court's finding of adverse possession because the judgment's description of the tract was reasonably specific. Finally, Orleans Harbour argues that the property line was not in dispute at trial because Orleans Harbour had previously represented on the record that it did not dispute the property line. The Supreme Court granted the petition.

O. STATUTE OF LIMITATIONS

1. Accrual

a) *Trinity Indus. Leasing Co. v. Lattimore Materials Corp.*, ___ S.W.3d ___, 2024 WL 3564994 (Tex. App.—Dallas 2024), *pet. granted* (May 29, 2026) [24-0953]

At issue in this case is the timeliness of a breach-of-contract suit involving a railcar lease agreement.

Trinity leased railcars to Lattimore, a concrete producer. The parties entered into a lease agreement that, among other things, required

Lattimore to "reimburse [Trinity] promptly" for "damage, loss or expense suffered by [Trinity] as a consequence" of material corrosion damage to the railcars. Lattimore's process of rinsing and loading limestone material into the railcars caused corrosion damage. In 2018, nearing the end of the lease term, Lattimore and Trinity discussed Lattimore's potential liability for the damage. Trinity gave Lattimore an option to defer payment and renew the lease. Lattimore extended the lease to 2021.

In January 2020, citing the railcars' unsafe condition, Lattimore terminated the lease. Trinity sued Lattimore in June 2020, alleging, among other things, that Lattimore improperly terminated the lease and failed to promptly reimburse Trinity for the railcar corrosion damage in violation of the lease.

A jury found that Lattimore breached the lease and awarded Trinity $1.6 million for lost rent and $9 million for Lattimore's failure to reimburse Trinity for the corrosion damage. However, the jury also found that Trinity knew or reasonably should have known of Lattimore's failure to comply with the corrosion-damage provision by December 31, 2015. The trial court entered judgement awarding Trinity lost rent, interest, and attorney's fees, but it set aside the corrosion-damage award because Trinity's suit was untimely filed under the statute of limitations. The court of appeals reversed, holding that Trinity's claim is not time-barred, and rendered judgment that Trinity is entitled to recover the corrosion-damage award.

Lattimore filed a petition for review, arguing that Trinity suffered an economic loss as soon as the railcars experienced material corrosion damage. According to Lattimore, Trinity's claim accrued when Lattimore failed to promptly reimburse Trinity for that damage. Because this occurred more than four years before Trinity sued, Trinity's claim is time-barred. Trinity argues that its claim did not accrue until January 2020, when Lattimore repudiated the lease agreement and Trinity suffered a reimbursable loss. The Supreme Court granted the petition.

P. TAXES

1. Property Tax

a) *San Patricio Cnty. Appraisal Dist. v. Gunvor USA LLC* and *San Patricio Cnty. Appraisal Dist. v. Devon Gas Servs., L.P.*, 731 S.W.3d 908 (Tex. App.—Corpus Christi–Edinburg 2026), *pets. granted and consolidated for oral argument* (May 1, 2026) [26-0153, 26-0157]

These cases concern whether oil stored in tanks in San Patricio County is exempt from ad valorem taxation under federal or state law.

Crude oil is delivered via pipeline from wells around the region to tanks in the County, where it is stored until transferred to an export terminal in Corpus Christi. For 2023, the San Patricio County Appraisal District appraised Devon's taxable property to include more than 219,000 barrels of stored oil, valued at over $17 million, and it appraised Gunvor's taxable property to include more than 428,000 barrels of stored oil, valued at over $38 million. The companies argue that the

oil is exempt from taxation under the Import–Export Clause of the U.S. Constitution, Article I, Section 10, which limits taxes a state can impose on imports or exports. The Texas Tax Code incorporates exemptions on ad valorem taxation imposed by federal law.

The trial court granted summary judgment for the companies, and the court of appeals affirmed. The District filed petitions for review arguing that the lower courts erred because the oil is not merely passing through Texas but is constantly present in substantial quantities, and has a substantial nexus to, the state. The Supreme Court granted the petitions and consolidated them for oral argument.

Q. TEXAS CITIZENS PARTICIPATION ACT

1. Initial Burden

a) *Chabot v. Frazier*, ___ S.W.3d ___, 2025 WL 2164002 (Tex. App.—Dallas 2025), *pet. granted* (June 19, 2026) [25-0995]

The issue in this case is whether the trial court erred in denying the defendant's motion to dismiss under the Texas Citizens Participation Act.

In an effort to prevent Frazier from being reelected to the Texas Legislature, Chabot ran a website that included news stories about how Frazier had pleaded no contest to criminal charges and its effect on his employment as a police officer. Chabot also posted signs describing Frazier as "convicted" and "dishonorably discharged." Frazier lost his primary election and later sued Chabot for defamation.

Chabot moved to dismiss under the TCPA. The trial court denied the motion. The court of appeals affirmed, concluding that Frazier made a prima facie showing that Chabot published false statements, that the statements were defamatory, that Chabot acted with actual malice, and that the statements were defamatory per se. The court of appeals also concluded that Chabot failed to establish any affirmative defense as a matter of law.

Chabot petitioned for review in the Supreme Court, arguing that the court of appeals erred in applying the law on defamation, that Frazier did not present evidence supporting each alleged defamatory statement, and that Frazier's claims were barred by affirmative defenses. The Court granted the petition.

R. WORKERS' COMPENSATION

1. Subrogation

a) *Old Republic Ins. Co. v. Morris*, 700 S.W.3d 172 (Tex. App.—Tyler 2024), *pet. granted* (Mar. 27, 2026) [24-1034]

This case concerns the proper calculation of an offset for an insurance carrier's subrogation lien.

Several Georgia-Pacific employees were injured in an explosion while working at a mill. Old Republic, Georgia-Pacific's insurer, paid workers' compensation benefits. Old Republic also paid settlements on behalf of Georgia-Pacific and other entities, and plaintiffs obtained settlements from other defendants. Plaintiffs obtained a favorable jury verdict in federal court, in which the jury found Georgia-Pacific partially responsible for plaintiffs' damages. The court reduced the

amount of the judgment based on the settlements and the percentages of responsibility found by the jury.

Old Republic later asserted a subrogation lien against plaintiffs' recovery. Plaintiffs sued Old Republic in state court, seeking a declaration of the lien's correct amount. Applying the employer responsibility offset set forth in the Workers' Compensation Act, the trial court concluded that Old Republic's lien was extinguished because the federal court's judgment reduced the plaintiffs' recovery by an amount greater than the lien based on Georgia-Pacific's percentage of responsibility. The court of appeals calculated the offset differently, concluding among other things that plaintiffs' recovery in the federal court judgment was reduced by the settlements.

Plaintiffs petitioned the Supreme Court for review, arguing that Old Republic waived any reliance on the settlements to reduce the amount of the lien's offset. Plaintiffs also argue the court of appeals' calculation of the offset strayed from the statute's plain text and that Old Republic contractually agreed not to seek any subrogation interest or credit for its settlement payments. The Court granted the petition.

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