

Introduction to the 2026 Edition

Texas Practice Guide: Personal Injury covers all aspects of Texas personal injury practice, including pre-litigation investigation, analysis, and employment of experts, theories of liability, evaluation of damages, settlement, filing suit, discovery, arbitration, trial, proving the case, judgment, and post-trial matters. It includes easy-to-use forms and checklists, citations to leading and recent cases, invaluable practice tips, statutes and rules, as well as examples, cautions, and ethical considerations, that give you concrete guidance.

Highlights include:

- New case discussion §§ 3:69, 3:71. Depositions to investigate claims before suit; discussing *In re DePinho*, 505 S.W.3d 621 (Tex. 2016) (orig. proceeding); *In re Office of Attorney Gen.*, 721 S.W.3d 80 (Tex. App.—15th Dist. 2025, no pet.); *Montoya Frazier v. Maxwell*, 2025 WL 494699 (Tex. App. Fort Worth 2025, pet. denied).
- New case discussion § 3:95. Need for expert testimony—When expert testimony is required; discussing *In re Estate of Lopez*, 2025 WL 3114451 (Tex. Nov. 7, 2025).
- New case discussion § 4:12. Negligence—Determine existence of duty—Negligent undertaking; discussing *Massage Heights Franchising, LLC v. Hagman*, 712 S.W.3d 615 (Tex. 2025).
- New case discussion § 4:13. Negligence—Determine existence of duty—Negligence per se; discussing *City of Houston v. Manning*, 714 S.W.3d 592 (Tex. 2025); *Tenaris Bay City Inc. v. Ellisor*, 718 S.W.3d 193 (2025).
- New case discussion and new Practice Tip § 4:19. Negligence—Determine duties owed to particular plaintiffs—Duty of care owed to rescuers as foreseeable parties when defendant's negligence endangers someone else—Governmental liability for actions of emergency personnel; discussing *City of Houston v. Gomez*, 716 S.W.3d 161 (Tex. 2025); *City of Killeen—Killeen Police Department v. Terry*, 712 S.W.3d 101 (Tex. 2025); *City of Austin v. Powell*, 704 S.W.3d 437 (Tex. 2024).
- New case discussion §§ 4:28, 4:31. Negligence—Determine duties owed by particular defendants; discussing *Raoger Corporation v. Myers*, 711 S.W.3d 206 (Tex. 2025).

- New case discussion §§ 4:67-4:69. Negligence—Establishing actual cause or cause in fact; discussing *Werner Enterprises, Inc. v. Blake*, 719 S.W.3d 525 (Tex. 2025).
- New case discussion § 4:77. Negligence—Defenses—Workers’ compensation law; discussing *In re East Tex. Med. Center Athens*, 712 S.W.3d 88 (Tex. 2025) (orig. proceeding).
- New case discussion § 4:82. Negligence—Defenses—Sovereign immunity; discussing *Renaissance Med. Found. v. Lugo*, 719 S.W.3d 505 (Tex. 2025); *Seward v. Santander*, 713 S.W.3d 341 (Tex. 2025); *City of Mesquite v. Wagner*, 712 S.W.3d 609 (Tex. 2025); *Kensington Title-Nevada, LLC v. Texas Department of State Health Services*, 710 S.W.3d 225 (Tex. 2025); *City of Austin v. Powell*, 704 S.W.3d 437 (Tex. 2024); *City of Houston v. Rodriguez*, 704 S.W.3d 462 (Tex. 2025); *City of Houston v. Sauls*, 690 S.W.3d 60 (Tex. 2024).
- New case discussion § 4:101. Employer liability for acts of employee, “respondeat superior”; discussing *Renaissance Med. Found. v. Lugo*, 719 S.W.3d 505 (Tex. 2025); *Walgreens v. McKenzie*, 713 S.W.3d 394 (Tex. 2025); *Massage Heights Franchising, LLC v. Hagman*, 712 S.W.3d 615 (Tex. 2025); *City of Mesquite v. Wagner*, 712 S.W.3d 609 (Tex. 2025).
- New case discussion § 4:107. Employer liability for acts of employee, “respondeat superior”—Establishing prima facie case—Employment relationship—Independent contractors—Right to control; discussing *Renaissance Med. Found. v. Lugo*, 719 S.W.3d 505 (Tex. 2025); *Massage Heights Franchising, LLC v. Hagman*, 712 S.W.3d 615 (Tex. 2025).
- New section § 4:108. Employer liability for acts of employee, “respondeat superior”—Establishing prima facie case—Employment relationship—Independent contractors—Right to control in certain industries; discussing *Renaissance Med. Found. v. Lugo*, 719 S.W.3d 505 (Tex. 2025) and Chapter 162 of the Texas Occupations Code.
- New case discussion § 4:233. Malicious prosecution—Procurement of proceedings; discussing *Keenan v. Robin*, 709 S.W.3d 595 (Tex. 2024).
- New section § 4:255. Trafficking of persons; discussing chapter 98 of the Texas Civil Practice & Remedies Code.
- New section § 4:256. Compelled prostitution and promotion of prostitution; discussing Chapter 98A of the Texas Civil Practice & Remedies Code and *A.S. v. Salesforce, Inc.*, 747 F.Supp.3d 970 (N.D. Tex. 2024) (applying Texas law).
- New sections §§ 4:257-4:259. Unlawful promotion or disclosure of intimate visual material; discussing newly enacted Chapter 98B of the Texas Civil Practice & Remedies Code.
- New section § 4:260. Injuries from space flight activities; discussing Texas Civil Practice & Remedies Code § 100A.002.

- New sections §§ 4:261, 4:262. Liability for online impersonation; discussing newly enacted Chapter 98C of the Texas Civil Practice & Remedies Code.
- New sections §§ 4:263-4:265. Liability for sexual misconduct of school employee involving students; discussing newly enacted Chapter 118 of the Texas Civil Practice & Remedies Code.
- New sections §§ 4:266, 4:267. Use of genome sequencers and sequencing technologies; discussing newly enacted Chapter 174 of the Texas Civil Practice & Remedies Code.
- New sections §§ 4:268, 4:269. Limited liability of water parks; discussing newly enacted Chapter 75D of the Texas Civil Practice & Remedies Code.
- New sections §§ 4:270, 4:271. Limited liability for cavern activities; discussing newly enacted Chapter 75C of the Texas Civil Practice & Remedies Code.
- New sections §§ 4:272, 4:273. Limited liability for motorized off-road vehicle activities; discussing newly enacted Chapter 75E of the Texas Civil Practice & Remedies Code.
- New sections §§ 4:274, 4:275. Liability for malicious solicitation during disaster; discussing newly enacted Chapter 100D of the Texas Civil Practice & Remedies Code.
- New section § 4:302. Premises liability—Determining duties owed—Public-safety officers; discussing *Seward v. Santander*, 713 S.W.3d 341 (Tex. 2025).
- New case discussion § 4:306. Premises liability—Duties owed to employees of independent contractors—Right to control; discussing *Massage Heights Franchising, LLC v. Hagman*, 712 S.W.3d 615 (Tex. 2025).
- New case discussion § 4:508. Average standard of care; discussing *Bush v. Columbia Medical Center of Arlington Subsidiary, L.P.*, 714 S.W.3d 536 (Tex. 2025).
- New case discussion §§ 4:536, 4:539. Expert reports; discussing *Bush v. Columbia Medical Center of Arlington Subsidiary, L.P.*, 714 S.W.3d 536 (Tex. 2025).
- New discussion § 4:553. Defenses—Actions arising from certain pregnancy complications; discussing amended provisions in Chapter 170A of Tex. Health & Safety Code Ann.
- New practice tip § 5:242. Proportionate responsibility; discussing *In re East Texas Medical Center Athens*, 712 S.W.3d 88 (Tex. 2024) (orig. proceeding).
- New case discussion § 7:5. Suits against governmental units—Emergency action; discussing *City of Houston v. Gomez*, 716 S.W.3d 161 (Tex. 2025); *City of Killeen—Killeen Police Department v. Terry*, 712 S.W.3d 101 (Tex. 2025); *City of Austin v. Powell*, 704 S.W.3d 437, 449 (Tex. 2024).
- New case discussion § 7:182. Joinder of parties—Necessary or compulsory joinder; discussing *EIS Development II, LLC v. Buena Vista Area Association*, 715 S.W.3d 689 (Tex. 2025).

- New section § 7:215. Intervention, is it possible?—Who may intervene—Intervention as a defendant; discussing *In re Ford Motor Co.*, 442 S.W.3d 265 (Tex. 2014) (orig. proceeding); *In re Certain Underwriters at Lloyd's, London*, 720 S.W.3d 749 (Tex. App.—Corpus Christi 2025, orig. proceeding).
- New case discussion §§ 7:237-7:240, 7:245. Personal jurisdiction—Jurisdiction over nonresidents; discussing *Fuld v. Palestine Liberation Organization*, 606 U.S. 1 (2025); *BRP-Rotax GmbH & Co. KG v. Shaik*, 716 S.W.3d 98 (Tex. 2025); *Hyundam Industrial Company, Ltd. v. Swacina*, 716 S.W.3d 167 (Tex. 2025).
- New case discussion § 7:337. Forum non conveniens—Proof requirements for moving party; discussing *In re Greyhound Lines, Inc.*, 718 S.W.3d 250 (Tex. 2025) (orig. proceeding).
- Discussion of amended rule § 8:58. Exceptions where leave of court required—Physical and mental examination of persons—Deposition in Texas for use in foreign jurisdiction; discussing Tex. R. Civ. P. 201.2 (as amended eff. Aug. 31, 2025).
- New case discussion § 8:71. Scope of discovery; discussing *In re State Farm Mutual Automobile Insurance Company*, 712 S.W.3d 53 (Tex. 2025) (orig. proceeding); *In re Office of the Attorney General*, 702 S.W.3d 360 (Tex. 2025) (orig. proceeding).
- New case discussion and new Practice Tip § 8:344. Depositions before commencement of action; discussing *Montoya Frazier v. Maxwell*, 2025 WL 494699 (Tex. App. Fort Worth 2025, pet. denied).
- New case discussion § 9:15. Generally—Federal Arbitration Act—Basis for revocation of “any contract” in law or equity; discussing *Cerna as Next Friend of R.W. v. Pearland Urban Air, LLC*, 714 S.W.3d 585 (Tex. 2025).
- New case discussion § 9:49. Application to personal injury cases—Waiver of arbitration; discussing *In re Greyhound Lines, Inc.*, 2025 WL 1478491, 68 Tex. Sup. Ct. J. 983 (May 23, 2025) (orig. proceeding).
- New case discussion § 12:11. Determination of matters to be tried first—Severance of issues; bifurcated trial; discussing *Boeing Company v. Southwest Airlines Pilots Association*, 716 S.W.3d 140 (Tex. 2025); *In re State Farm Mutual Automobile Insurance Company*, 712 S.W.3d 53 (Tex. 2025) (orig. proceeding).
- New section § 12:45. Evidence required to make prima facie case—Duty of care and breach—Premises liability—Status of plaintiff and degree of care owed—Public-safety officers; discussing *Seward v. Santander*, 713 S.W.3d 341 (Tex. 2025).
- New section § 12:46. Evidence required to make prima facie case—Duty of care and breach—Premises liability—Status of plaintiff and degree of care owed—Independent contrac-

tor; Right of control in certain industries; discussing Renaissance Medical Foundation v. Lugo, 2025 WL 1478694, 68 Tex. Sup. Ct. J. 951 (May 23, 2025) and Chapter 162 of the Texas Occupations Code.

- New case discussion § 12:110. Rebutting plaintiff's case—Establishing lack of proximate cause; discussing Werner Enterprises, Inc. v. Blake, 719 S.W.3d 525 (Tex. 2025).
- New discussion § 12:121. Evidence required to make out a defense—Actions arising from certain pregnancy complications; discussing amended provisions in Chapter 170A of Tex. Health & Safety Code Ann.
- New case discussion § 12:134. Relevancy and competency—Relevance of particular types of evidence in a personal injury case—Violation of statute; discussing City of Houston v. Manning, 714 S.W.3d 592, 596 (Tex. 2025); Tenaris Bay City Inc. v. Ellisor, 718 S.W.3d 193, 197 (2025).
- New case summaries added throughout.