

Published Opinions:¹

1. ***In Re Bank of America, N.A.***, 45 S.W.3d 238 (Tex.App. —Houston [1st Dist.] 2001) [Petition for writ of mandamus granted directing trial court to order disqualification of counsel.]²
2. ***Taub v. Harris County Flood Control Dist.***, 76 S.W.3d 406 (Tex.App.—Houston [1st Dist.] 2001), pet. denied. [Affirming dismissal of bill of review action based of plea to the trial court's jurisdiction.]
3. ***Goodie v. Houston Independent School Dist.***, 57 S.W.3d 646 (Tex.App.—Houston [14th Dist.] 2001), pet. denied. [Reverse and rendering trial court judgment upholding school board decision to terminate teacher.]
4. ***Mocega v. Urquhart***, 79 S.W.3d 61 (Tex.App.—Houston [14th Dist.] 2002), pet denied. [Reversing order dismissing medical malpractice case because of failure to timely file expert's report.]
5. ***In Re Nitla S.A. De C.V.***, 92 S.W. 3d 419, (Tex. 2002) [Mandamus of First Court of Appeals regarding disqualification of counsel, effectively affirming trial court's order and holding that when a party receives documents directly from a trial court and a reviewing court later deems the documents privileged, the party moving to disqualify opposing counsel must show: (1) opposing counsel's reviewing the privileged documents caused actual harm to the moving party; and (2) disqualification is necessary, because the trial court lacks any lesser means to remedy the moving party's harm.]
6. ***Todd v. Pin Oak Green***, 75 S.W.3d 658 (Tex.App. —Texarkana 2002), no pet. [Affirming summary judgment on grounds of no legal duty.]
7. ***Carter v. MacFadyen, M.D.***, 93 S.W.3d 307 (Tex.App. —Houston [14th Dist.] 2002), pet. denied. [Affirming no evidence summary judgment and affirming summary judgment based on limitations.]
8. ***Thayer v. Houston Municipal Employees Pension System***, 95 S.W.3d 573 (Tex.App.—Houston [1st Dist.] 2002), no pet. [Affirming order of dismissal for want of jurisdiction.]
9. ***Cindy Carter v. Steverson & Company***, 106 S.W.3d 161 (Tex.App. —Houston [1st Dist.] 2003), pet denied. [Affirming judgment for plaintiff on claim of lost profits resulting from breach of employment contract and reversing remittitur of

¹ ***Boulet v. Texas***, 189 S.W.3d 833 (Tex. App.—Houston [1st Dist.] 2006) reverses the judgment of a visiting judge presiding over what is known as the Harris County seizure and forfeiture court.

² Reversed. See ***In Re Nitla S.A. De C.V.***, 92 S.W.3d 419 (Tex. 2002).

damages and thereby reforming judgment to award damages based on the jury verdict.]

10. ***Williams Industries, Inc. v. Earth Development***, 110 S.W.3d 131 (Tex.App. — Houston [1st Dist.] 2003), no pet. [Reversing denial of application to compel arbitration on grounds of waiver.]
11. ***Algenard Francis v. Coastal Oil & Gas Corporation***, 130 S.W.3d 76 (Tex.App. —Houston [1st Dist.] 2003), no pet. [Affirming take nothing judgment on claim under Chapter 95, Texas Civil Practices & Remedies Code and judgment not withstanding jury verdict on common law claims.]
12. ***Stephens v. Dolcefino***, 126 S.W.3d 120 (Tex.App. —Houston [1st Dist.] 2003), pet. denied. [Affirming summary judgment dismissing claims for intentional infliction of emotional distress, negligence, civil conspiracy and exemplary damages and reversing summary judgment on statutory wiretapping claim.]³
13. ***Ikon Office Solutions, Inc. v. Eifert***, 125 S.W.3d 113 (Tex.App. — Houston [14th Dist.] 2003), pet. denied. [Reverse and render of judgment based on jury verdict in common law fraud claim on grounds that evidence in support of the verdict was legally insufficient.]
14. ***Cherqui v. Westheimer Street Festival Corporation***, 116 S.W.3d 337 (Tex.App. — Houston [14th Dist.] 2003), no pet. [Affirming directed verdict in personal injury action asserting claims of respondeat superior for actions of City of Houston police officers.]
15. ***Houston Land & Cattle Co., L.C. v. Harris County Appraisal District***, 104 S.W.3d 622 (Tex.App. —Houston [1st Dist.] 2003), pet. denied. [Affirming judgment upholding the validity and enforceability of increases in appraisal value of property.]
16. ***Styers v. Schindler Elevator Corp.***, 115 S.W.3d 321 (Tex.App. —Texarkana 2003), pet. denied. [Affirming take nothing judgment following jury verdict wherein plaintiff contended there was error in denying motion to strike four prospective jurors and error in the jury charge.]
17. ***The Texas Development Company v. Exxon Mobil Corp.***, 119 S.W.3d 875 (Tex.App. —Eastland 2003), no pet. [Reverse and remand of summary judgment dismissing claims to recover payments pursuant to an anti-assignment provision held to infringe on Chapter 9 of the Uniform Commercial Code.]⁴

³ Opinion on rehearing replacing the court's earlier opinion dated August 8, 2002.

⁴ Opinion on rehearing replacing the court's earlier opinion dated June 12, 2003 where the same three judge panel had affirmed the summary judgment.

18. ***Carousel's Creamery, L.L.C., v. Marble Slab Creamery, Inc.***, 134 S.W.3d 385 (Tex.App. — Houston [1st Dist.] 2004), pet. dismissed pursuant to settlement agreement. [Affirming take nothing judgment on fraud and DTPA claims based on jury verdict where plaintiff/appellant alleged there was error in excluding certain evidence; error in the court's charge and jury answers against the weight of the evidence and reversing and remanding the granting of a directed verdict on the negligent misrepresentation claim where the court said the negligent misrepresentation claim was not a disguised contract claim and that a disclaimer of representation was not an important part of the basis of the bargain and that a merger/integration clause in a later signed agreement did not contemplate tort liability.]
19. ***Apcar Investments v. Michael L. Gaus***, 161 S.W.3d 137, (Tex.App. — Eastland 2005), no pet. [Reverse and remand of summary judgment in issue of first impression of whether a limited liability company was required to comply with statutory renewal requirements in order to protect partners from individual liability.]
20. ***Irving W. Marks v. St. Luke's Episcopal Hospital***, 177 S.W.3d 255 (Tex.App. — Houston [1st Dist.] 2005), pet. granted and opinion vacated. [Reversing trial court dismissal of healthcare liability claim for failure to file expert report on the basis that a premises claim was alleged.]⁵
21. ***The Insurance Company of the State of Pennsylvania v. Hartford Underwriters Insurance Company***, 164 S.W.3d 747 (Tex.App. — Houston [14th Dist.] 2005), no pet. [Reversing summary judgment where temporary staffing agency's carrier waived right to contest its liability for claimant's benefits and was solely responsible for payment of benefits.]
22. ***TMC Worldwide, L.P. v. Richard Gray***, 178 S.W.3d 29 (Tex.App. — Houston [1st Dist.] 2005), no pet. [Affirming denial of temporary injunction where a covenant not to compete was not enforced to prevent former employee from competing and to prevent former employee from continuing to use employer's trade secrets.]
23. ***Davis v. Spring Branch Medical Center, Inc.***, 171 S.W.3d 400 (Tex.App. — Houston [14th Dist.] 2005, no pet.). [Affirming dismissal of medical negligence claims because of inadequate expert reports and denial of grace period to file reports.]

⁵ Opinion of the Court of Appeals vacated. See *St. Luke's Episcopal Hospital v. Marks*, 193 S.W.3d 575 (Tex. 2006)

24. ***Goebel v. Brandley***, 174 S.W.3d 359 (Tex.App. — Houston [14th Dist.] 2005), pet denied. [Reverse and render of summary judgment in action under the Texas Uniform Fraudulent Transfer Act and holding that wages used to purchase savings bonds under a payroll deduction program were not “assets” under TUFTA.]
25. ***The University of Texas Health Science Center v. Terry Schroeder***, 190 S.W.3d 102 (Tex.App. — Houston [1st Dist.] 2005), no pet. [Reverse and render of denial of plea to the jurisdiction and holding that there was no waiver of immunity where there was no use of personal property by a government employee and that claims of negligent supervision by UT do not constitute a use of property claim and immunity is not waived for such claims.]
26. ***Ferrer v. Guevara***, 192 S.W.3d 39 (Tex.App. — El Paso 2005), pet. granted, reversed by the Supreme Court and remanded back to the Eighth Court of Appeals.⁶ [Reversing trial court judgment notwithstanding verdict and holding that lay testimony is sufficient to prove causation where it is established by sequence of events providing a strong, logical traceable connection between the event and the condition.]
27. ***Smith v. Landry's Crab Shack, Inc.***, 183 S.W.3d 512 (Tex.App. — Houston [14th Dist.] 2006), no pet. [Affirming no evidence summary judgment dismissing case where there was no cause in fact evidence to support claim of food poisoning.]
28. ***Mathis v. RKL Design/Build***, 189 S.W.3d 839 (Tex.App. — Houston [1st Dist.] 2006), no pet. [Affirming summary judgment in premises liability case finding there to be no evidence of a legal duty and holding that res ipsa does not apply in case against multiple defendants where there is not joint control over the instrument causing the injury.]
29. ***Hall v. Hubco, Inc.***, __ S.W.3d __ (Tex.App. — Houston [14th Dist.] 2006), pet. denied. [Reversing and rendering judgment finding no consideration to support a jury finding of breach of contract, affirming judgment notwithstanding verdict because expert testimony in support of the damages was unreliable and reversing and rendering judgment notwithstanding verdict where decrease in market value was recoverable even though plaintiff admitted unreliable evidence of cost to clean up that was lesser amount because minimization of damages is a defensive matter on which the defendant bears the burden of proof.]
30. ***St. Luke's Episcopal Hospital v. Irving W. Marks***, 193 S.W.3d 575 (Tex. 2006). [Vacating the opinion of the First Court of Appeals, 177 S.W.3d 255 and

⁶ See item # 37 below.

- remanding to that court for further consideration in light of other Supreme Court authority.]
31. ***Rollins v. American Express Travel Related Services Company, Inc.***, 219 S.W.3d 1 (Tex.App. — Houston [1st Dist.] 2006), no pet. [Affirming judgment and holding that a writ of execution need not be validly issued before a second writ can be issued within the statutory period.]
 32. ***Irving W. Marks v. St. Luke's Episcopal Hospital*** 229 S.W.3d 396 (Tex.App. — Houston [1st Dist.] 2007), pet. filed. [Affirming trial court dismissal of healthcare liability claim for failure to file expert report.]⁷(J. Jennings concurring in part and dissenting in part.)
 33. ***George Mathis, Jr. v. Restoration Builders, Inc.***, 237 S.W.3d 47 (Tex.App. — Houston [14th Dist.] 2007), no pet. [Reversing no evidence summary judgment in premises case where failure to cover hole two years before the accident held to be cause of someone covering a hole with a defective material and thus a substantial factor in bringing about harm to plaintiff.] (J. Edelman dissenting.)
 34. ***Webworld Marketing Group, L.L.C. v. Tommie Thomas***, __ S.W.3d __ (Tex.App. — Houston [1st Dist.] 2007). [Affirming the trial court's judgment notwithstanding verdict and finding substantial evidence to support the Harris County Sheriff's decision to deny an application for a SOB permit.]⁸ (J. Keyes dissenting.)
 35. ***Keith Lowell v. City of Baytown***, __ S.W.3d __ (Tex.App. — Houston [1st Dist.] 2007), pet. filed. [Affirming dismissal of claim for back pay under the Civil Service Act with prejudice and reversing the dismissal of declaratory judgment action and request for permanent injunction regarding alleged violations of provisions of the Civil Service Act.]
 36. ***Goss v. Kellogg Brown & Root, Inc.***, 232 S.W.3d 816 (Tex.App. — Houston [14th Dist.] 2007), pet. denied. [Affirming take nothing judgment based on jury verdict and finding no legally sufficient evidence to support causation and no error in exclusion of expert testimony.]
 37. ***Guevara v. Ferrer***, __ S.W.3d __ (Tex. 2007). [Reversing the opinion of the Eighth Court of Appeals, 192 S.W.3d 39 and remanding to that court for further consideration in light of the Court's holding that expert medical evidence is required to prove causation unless competent evidence supports a finding that the

⁷ Opinion on remand from the Texas Supreme Court. See 177 S.W.3d 255 (Tex.App.—Houston [1st Dist.] 2005) and 193 S.W.3d 575 (Tex. 2006).

⁸ This is the fourth opinion of the 1st Court of Appeals in this case. It replaces the Court's opinion reported at 218 S.W.3d 865, dated March 22, 2007. Opinions also issued November 9, 2006 and May 25, 2006.

- conditions in question, the causal relationship between the conditions and the accident, and the necessity of the particular medical treatments for the conditions are within the common knowledge and experience of laypersons.]
38. ***The Johns Hopkins University v. Rahul K. Nath, M.D.***, 238 S.W.3d 492 (Tex.App. — Houston [14th Dist.] 2006), pet. denied. [Affirming granting of special appearance of doctor based in Maryland who allegedly made defamatory statements about a Texas doctor to a fellow doctor residing in Canada and patients of the Texas doctor who come from all across the country and reversing the denial of the special appearance of a Maryland university which employed ten people in Texas, which actively recruits in Texas and engages in collaborative research with Texas research institutions.]
 39. ***Saskia Madison et al v. Warren Reid Williamson et al***, 241 S.W.3d 145 (Tex.App. — Houston [1st Dist.] 2007), pet. filed. [Affirming summary judgment where there was no evidence that wife had any duty, right, or ability to control husband and prevent his criminal acts and affirming judgment based on jury verdict and finding that election of remedies was properly applied, that cap on exemplary damages was properly applied to the jury's award to plaintiffs, that adjudicating costs against non-prevailing party was appropriate without and accounting of such costs and holding that party obtaining summary judgment in an interlocutory order may prepare and submit a proposed final judgment; .]
 40. ***In Re Weeks Marine, Inc.***, 242 S.W.3d 849 (Tex.App. —Houston [14th Dist.] 2007), pet. filed. [Petition for writ of mandamus granted requiring this court to vacate order denying motion to compel arbitration and denying mandamus to require this court to order arbitration, holding that the issue of whether agreement was procedurally unconscionable was for the trial court to decide, not the arbitrator; finding agreement not substantively unconscionable; agreement not invalid based on claim of diminishing substantive rights.]
 41. ***Davis v. Webb***, ___ S.W.3d ___ (Tex.App. — Houston [14th Dist.] 2008). [Affirming dismissal of medical malpractice case where plaintiff filed a report of a person who did not satisfy the requirements for an expert in a medical malpractice case against a physician and finding that an extension of time was unavailable under such circumstances.]
 42. ***Mark A. Cantu v. Howard S. Grossman***, ___ S.W.3d ___ (Tex.App. — Houston [14th Dist.] 2008). [Reversing this court's judgment and holding that the general venue statute applies to the filing of a foreign judgment filed under the uniform foreign judgment act.] (J. Frost dissenting.)
 43. ***Mansour Sanjar, M.D. v. Augustine Turner***, ___ S.W.3d ___ (Tex.App. — Houston [14th Dist.] 2008). [Affirming this Court's denial of motion to dismiss

healthcare claim based on the doctor's contention that the plaintiff's expert report was deficient and concluding that grouping defendant doctors together under the relevant standard of care for each condition does not render an expert report inadequate.]

44. ***Bancorpsouth Bank f/k/a Bank of Mississippi v. Albert Prevot***, ___ S.W.3d ___ (Tex.App. — Houston [14th Dist.] 2008). [Reversing and rendering this court's order that it had no jurisdiction to enforce a domesticated Mississippi judgment where there was a dormant Texas judgment arising from an earlier Mississippi judgment and finding the judgment enforceable in Texas.]

Memorandum Opinions and Opinions Not designated for Publication:^{9 10}

1. ***In Re Raymond W. Solcher and Rainbow Chasers, Inc. d/b/a Whispering Pines Court***, No. 01-00-00488-CV (Tex.App.—Houston [1st Dist.] June 1, 2000), no pet. [Denial of petition for writ of mandamus for denying motion to confirm arbitration award and denying motion to dismiss.]
2. ***Universal Fleet Leasing, Inc. v. Pope***, No. 01-99-01235-CV (Tex.App. — Houston [1st Dist.] November 16, 2000), pet. denied. [Affirming no evidence summary judgment on grounds of no evidence of damages to support DTPA claim.]
3. ***Schneider v. A-K Texas Venture Capital***, No. 14-00-00377-CV (Tex.App. — Houston [14th Dist.] April 12, 2001), no pet. [Reversing summary judgment on sworn account action holding that affirmative defenses may be raised even in the absence of a verified denial under **TRCP** 185.]
4. ***Harris County Emergency Services District No. 2. v. Harris County Appraisal District***, No. 14-00-00851-CV (Tex.App.—Houston [14th Dist.] October 21, 2001), pet. denied. [Affirming summary judgment on grounds of lack of justiciable interest.]

⁹ ***Pryor v. Texas***, No. 14-05-00411-CV, (Tex. App.—Houston [14th Dist.] June 6, 2006) affirms the judgment of a visiting judge presiding over what is known as the Harris County seizure and forfeiture court.

¹⁰ ***Chicago Title Insurance v. Home Loan Corporation***, No. 14-04-01059-CV (Tex.App. — Houston [14th Dist.] 2007). [Affirming and modifying trial court judgment based on jury verdict where jury found breach of fiduciary duty and fraud in acts committed in residential real estate closing.] Opinion withdrawn on September 13, 2007 pursuant to the parties agreed motion to dismiss the appeal in order to effectuate a compromise and settlement agreement.

5. ***In Re Statewide Waste Systems, Inc.***, No. 14-01-01009-CV (Tex.App. — Houston [14th Dist.] October 31, 2001), no pet. [Denial of petition for writ of mandamus regarding order compelling production of discovery.]
6. ***Shabahram “Bob” Yazdani-Beioky v. Feroze “Fred” Bhandara***, No. 14-00-01509-CV (Tex.App.—Houston [14th Dist.] November 15, 2001), no pet. [Affirming denial of motion to compel arbitration.]
7. ***Sam Texas v. Chase Securities of Texas, Inc.***, No. 14-00-01078-CV (Tex.App.—Houston [14th Dist.] January 10, 2002), pet. denied. [Affirming directed verdict on claimed conversion of money.]
8. ***Bosch v. Smetana 8876 Associates***, No. 01-00-01414-CV (Tex.App.—Houston [1st Dist.] April 4, 2002), pet. denied. [Affirming summary judgment on contract, fraud and other miscellaneous business tort claims.]
9. ***Petka Corporation v. Puma Energy, Inc.*** No. 01-01-00918-CV (Tex.App. — Houston [1st Dist.] April 11, 2002), pet. denied [Affirming no evidence summary judgment.]
10. ***Krueger Engineering & Manufacturing Company, Inc. v. Admiral Truck Services, Ltd.***, No. 14-01-00035-CV (Tex.App.—Houston [14th Dist.] April 18, 2002), no pet. [Reversing summary judgment on indemnification contract.]
11. ***Automotive Acceptance Company, Inc. v. LaJuna Phillips***, No. 01-01-00669-CV (Tex.App.—Houston [1st Dist.] May 30, 2002), pet. denied [Affirming judgment to enforce judgment obtained in a Missouri state court.]
12. ***Clemons v. Landow***, No. 01-00-01036-CV (Tex. App.--Houston [1st Dist.] August 15, 2002), no pet. [Affirming summary judgment holding that assignment of contribution claims void as a matter of law.]
13. ***Thomas v. Itochu Project Management, Inc.***, No. 01-00-00578-CV (Tex. App.--Houston [1st Dist.] August 30, 2002), pet. denied. [Affirming no evidence summary judgment on limitations and on no duty and no breach.]
14. ***Bustos v. Able Crushed Concrete, Inc.***, No. 01-01-00075-CV (Tex. App.--Houston [1st Dist.] October 17, 2002), no pet. [Affirming take nothing judgment after jury verdict where appellant alleged there was error in the jury charge, insufficient evidence to support the verdict and error in not excluding certain evidence.]
15. ***Glass v. Amber, Inc.***, No. 01-00-00589-CV (Tex.App.—Houston [1st Dist.] October 31, 2002), pet. denied. [Affirming trial court judgment notwithstanding

jury verdict on claim for exemplary damages and reversing trial court judgment notwithstanding jury verdict on worker's compensation retaliatory discharge claim.]¹¹

16. ***Merrill Investments, Ltd. v. The Coastal Corporation***, No. 01-02-00018-CV (Tex.App.—Houston [1st Dist.] November 14, 2002), no pet. [Affirming summary judgment on statute of limitations.]
17. ***Evans v. Reliant Energy Inc.***, No. 01-01-00855-CV (Tex.App.—Houston [1st Dist.] December 19, 2002), no pet. [Affirming summary judgment granted on affirmative defense of legal justification or excuse with regard to tortious interference claim.]
18. ***Milliken v. Skepnek***, No. 01-01-00372-CV (Tex.App.—Houston [1st Dist.] February 20, 2003), pet denied. [Affirming directed verdict on claims of action to enforce guarantee, fraud, quantum meruit and assault and battery.]
19. ***Kimberly Nonmacher v. Byron B. Holt, M.D.*** No. 14-02-00162-CV (Tex.App. — Houston [14th Dist.] April 3, 2003), pet denied. [Affirming dismissal of medical malpractice lawsuit for failure to file adequate expert reports.]
20. ***C&D Brokerage Company, Inc. v. Compass Bank***, No. 14-02-00484-CV (Tex.App. —Houston [14th Dist.] April 3, 2003), pet denied. [Affirming summary judgment on suit on promissory note.]
21. ***Cuong Ve Huynh v. Anh Huy Vo***, No. 01-02-00295-CV (Tex.App. —Houston [1st Dist.] April 10, 2003), no pet. [Affirming default judgment on claim of trespass and reversing default judgment on conversion, slander of title and award of attorneys fees.]
22. ***In Re George R. Neely***, No. 14-03-00430-CV (Tex.App. —Houston [14th Dist.] April 24, 2003), pet denied. [Denial of petition for writ of mandamus regarding order granting a new trial.]
23. ***In Re Samuel L. Gueringer***, No. 14-03-00860-CV (Tex.App. —Houston [14th Dist.] August 21, 2003), no pet. [Denial of petition for writ of mandamus regarding order referring case to arbitration.]
24. ***Raul Resendez v. Pace Concerts, Inc.***, No. 07-02-0168-CV (Tex.App. — Amarillo September 24, 2003), pet. denied. [Affirming summary judgment dismissing claim to enforce a ten year partnership agreement held unenforceable due to the Statute of Frauds.]

¹¹ Opinion on rehearing replacing the court's earlier opinion dated August 9, 2001.

25. *Dorothy Cook v. Edward H. Withers, M.D.*, No. 14-03-00816-CV (Tex.App. — Houston [14th Dist.] April 13, 2004), no pet. [Affirming summary judgment on limitations and on grounds that breach of contract claims were a recharacterization of medical negligence claims.]
26. *Mondial, Inc. v. Alfred Karcher, GmbH & C.*, No. 01-03-01311-CV (Tex.App. —Houston [1st Dist.] June 17, 2004), no pet. [Affirming special appearance dismissing contract and tort claims against German company.]
27. *State Office of Risk Management v. Eva Jurode*, No. 01-03-01177-CV (Tex.App. —Houston [1st Dist.] January 13, 2005), no pet. [Affirming summary judgment on grounds of limitations.]¹²
28. *Bell v. ExxonMobil Corp.*, No. 01-04-00171-CV (Tex.App. —Houston [1st Dist.] March 3, 2005), pet. denied. [Affirming dismissal for failure to comply with “Lone Pine” order.]
29. *Elsa Mocega v. Bradford Urquhart, M.D.*, No. 01-04-00172-CV (Tex.App.—Houston [1st Dist.] June 9, 2005), no pet. [Affirming order dismissing medical malpractice case because of failure to timely file expert’s report.]
30. *In Re Heart Valve Litigation II*, No. 01-03-00883-CV (Tex.App.—Houston [1st Dist.] December 21, 2005), no pet. [Affirming summary judgment dismissing various state court causes of action that were preempted by federal drug administration regulation and premarket approval.]
31. *Dorothy De Los Santos v. Healthmark Park Manor*, No. 01-06-00014-CV (Tex.App.—Texarkana 2005), no pet. [Affirming no evidence summary judgment in slip and fall premises case holding there was no evidence of the condition causing the incident.]
32. *In Re Tankinetics, Inc.*, No. 14-04-01204-CV (Tex.App.—Houston [14th Dist.] December 21, 2005), no pet. [Denial of petition for writ of mandamus related to the denial of motion to compel arbitration under the Federal Arbitration Act.]¹³
33. *McCranie v. Chamberlain, Hrdlicka, White, Williams & Martin, P.C.*, No. 14-04-00793-CV (Tex.App. — Houston [14th Dist.] February 7, 2006), pet. denied. [Affirming summary judgment in legal malpractice action based on limitations

¹² Judge Benton sitting as judge of the 334th District Court pursuant to Harris County local rules during a period when the 334th was without a sitting judge.

¹³ See also, *Tankinetics, Inc. v. Texas Workforce Commission*, No. 14-04-01020-CV (Tex.App. — Houston [14th Dist.] December 21, 2005), no pet. [Dismissing interlocutory appeal of order denying motion to compel arbitration because the Texas Arbitration Act did not apply to the dispute.]

and holding that the statute of limitations was not tolled in case involving legal services that didn't involve the prosecution or defense of a claim.]

34. ***Chad Oistad, D.C. v. Baker & Hostetler, L.L.P.***, No. 01-05-00493-CV (Tex.App. — Houston [1st Dist.] March 2, 2006), no pet. [Affirming dismissal and severance of counterclaims and third party claims alleging legal malpractice and fraud claims from action alleging business dispute amongst chiropractors involving contract and quantum meruit claims.]
35. ***New Process Steel, L.P. v. Sharp Freight Systems, Inc.***, No. 01-04-00764-CV (Tex.App. — Houston [1st Dist.] April 13, 2006), no pet. [Affirming judgment in breach of contract and negligent misrepresentation claims tried to the bench and concluding the evidence supported the trial court's findings.]
36. ***Gene Vickery v. Robert A. Behar, M.D.***, No. 14-04-00788-CV (Tex.App. — Houston [14th Dist.] April 27, 2006), no pet. [Affirming judgment based on jury verdict and finding no error in denying motion to strike venireman for cause and no error in denying motion for new trial based on alleged juror misconduct.]
37. ***In Re Cottage Gardens Homebuyers' Association***, No. 01-05-01052-CV (Tex.App. — Houston [1st Dist.] May 4, 2006), no pet. [Denial of petition for writ of mandamus regarding interlocutory dismissal of claims against certain defendants.]
38. ***(Corporate Park West) Hartman Reit Operating Partnership v. Waller County Appraisal District***, No. 01-05-00913-CV (Tex.App. — Houston [1st Dist.] June 29, 2006), no pet. [Affirming judgment on jury verdict and finding legally and factually sufficient evidence to support verdict and finding a failure to preserve error to complain about admission of evidence.]
39. ***In Re Jason Absher***, No. 01-06-00754-CV (Tex.App. — Houston [1st Dist.] September 21, 2006), no pet. [Denial of petition for writ of mandamus complaining of order severing plaintiffs' claims and mandating the cases be randomly reassigned to the various Harris County district courts.]
40. ***Kenneth D. Lathrop v. Personalysis Corp.***, No. 14-06-00074-CV (Tex.App. — Houston [14th Dist.] October 31, 2006), no pet. [Affirming denial of special appearance, finding that visits to Texas rooted in the continuing relationship with the Texas resident were sufficient to support basis for specific jurisdiction and finding sufficient minimum contacts where the deletion of a forum selection clause designating foreign jurisdiction was evidence that local jurisdiction was anticipated and that foreseeability is an important consideration in deciding whether the nonresident defendant purposefully established minimum contacts with Texas.]

41. ***Jose Diaz de Leon v. Tesco Corporation***, No. 14-04-00513-CV (Tex.App. — Houston [14th Dist.] November 16, 2006), no pet. [Affirming declaratory judgment that release between the parties barred subsequent claims related to employment and finding sufficient evidence to support award of attorney's fees arising from the declaratory judgment action.]
42. ***Maria Olga Garcia v. Seller Bros., Inc.***, No. 14-05-00954-CV (Tex.App. — Houston [14th Dist.] November 21, 2006), no pet. [Affirming summary judgment in slip and fall premises case and affirming denial of request for a spoliation presumption.]
43. ***In Re William Stephens and Ray Jordan***, No. 01-07-00058-CV (Tex.App. — Houston [1st Dist.] February 1, 2007), pet. denied. [Denial of petition for writ of mandamus complaining of order disqualifying plaintiffs' counsel.]
44. ***Aspenwood Apartment Corp. v. Beatrice Link***, No. 01-05-00555-CV (Tex.App. — Houston [1st Dist.] April 19, 2007), pet filed. [Affirming order of dismissal and summary judgment in actions against city employee and city official in part and reversing in part on the ground that state law malicious prosecution claims were not fully or fairly litigated in previous action against the City of Houston.]
45. ***Anthony Perkins. v. William Ulrich***, No. 14-05-00992-CV (Tex.App. — Houston [14th Dist.] 2007), no pet. [Affirming trial court summary judgment on employee's breach of contract claim where the employee was notified of modification of compensation policies and continued to work thus accepting the modifications as a matter of law.]
46. ***Prosperity Bank v. Kris Rogge***, No. 01-07-00161-CV (Tex.App. — Houston [1st Dist.] July 12, 2007), no pet. [Affirming order denying application for temporary injunction to enforce covenant not to compete where the reviewing Court held there was no evidence of probable or imminent injury.]
47. ***City of Houston v. Mary M. Babin Kennedy***, No. 01-07-00097-CV (Tex.App. — Houston [1st Dist.] August 2, 2007), pet filed. [Affirming summary judgment dismissing intentional torts alleged against the City of Houston; affirming summary judgment dismissing individual paramedics and reversing and rendering non-intentional torts against the City of Houston on jurisdictional grounds.]
48. ***In Re Enron Creditors Recovery Corp.***, No. 01-07-00435-CV (Tex.App. — Houston [1st Dist.] September 6, 2007), no pet. [Denial of petition for mandamus regarding order compelling the production of documents that were alleged to be attorney work product and subject to attorney client privilege.]

Citations to Texas Supreme Court and Appellate Court opinions reviewing Judge Benton's judgments and orders. [Case summaries prepared by Judge Benton.]
Date last updated: March 7, 2008

49. *In Re American Lift & Equipment, Inc.*, No. 01-07-00746-CV (Tex.App. — Houston [1st Dist.] September 20, 2007), pet. denied. [Denial of petition for mandamus regarding order granting a mistrial.]
50. *Dixon Financial Services, Ltd. v. Greenberg, Peden, Siegmyer & Oshman, P.C.*, No. 01-06-00696-CV (Tex.App. — Houston [1st Dist.] November 15, 2007). [Affirming summary judgment dismissing claims of third party against attorneys based on defense of immunity]
51. *Philip J. McGee v. Abrams Technical Services, Inc.*, No. 01-06-00590-CV (Tex.App. — Houston [1st Dist.] November 15, 2007). [Affirming summary judgment dismissing breach of contract claims finding there to be no evidence of breach.]