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Dorsaneo, Texas Litigation Guide

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HIGHLIGHTS

Release 103

- This release updates *Texas Litigation Guide* with recent legislation from the 2011 regular session of the Texas state legislature, recent Texas Supreme Court cases, and other significant developments in Texas law since Releases 101 and 102. Some of the significant developments incorporated in this release are summarized below.
- DORSANEO, TEXAS LITIGATION GUIDE (USPS 018-383) is published quarterly for \$3,463 by Matthew Bender & Co., Inc. 1275 Broadway, Albany, N.Y. 12204-2694. Periodical postage is paid at Albany, N.Y. and at additional mailing offices. POSTMASTER: Send address changes to DORSANEO, TEXAS LITIGATION GUIDE, 136 Carlin Rd., Conklin, N.Y. 13748-1531.

islation requiring the Texas Supreme Court to adopt rules to provide for the dismissal of causes of action that have no basis in law or fact, on motion and without evidence. The new rules must provide that the motion to dismiss will be granted or denied within 45 days of filing. These rules will not apply to actions under the Family Code [see Acts 2011, 82nd Leg., R.S., ch. 203, § 1.01 (adding Tex. Gov't Code § 22.004(g))]. For further discussion, see the Special Alert preceding Ch. 103, *Dismissal*. This new topic will be incorporated into this and other appropriate chapters in a future release after the Court issues its new rules.

Pretrial, Trial, and Appellate Practice

Supreme Court to Create Rules Providing for Early Dismissal of Frivolous Actions. The Legislature has enacted leg-

Amendments to Statutory Procedure for Cost Shifting Based on Failure to Accept Settlement Offer. The Legislature has amended the statutes governing cost shifting when a party rejects a statutory offer of settlement and subsequently fails to obtain a more favorable judgment [see Tex. Civ. Prac. & Rem. Code § 42.001 et seq., as amended Acts 2011, 82d Leg., R.S., ch. 203, art. 4]. Among other things, the legislation clarifies that reasonable deposition

expenses are included within recoverable costs and modifies the formula for determining the maximum amount of costs that may be recovered. The amendments have been incorporated into Ch. 102, *Settlement*.

All Persons Expected to Have Adverse Interests in Anticipated Suit Must be Served with Notice of Hearing re Pre-Suit Deposition. This release is updated to include a discussion of *In re John Does 1 and 2*, 337 S.W.3d 862, 2011 Tex. LEXIS 295, *5 (Tex. 2011), in which the Texas Supreme Court held that a court may not order pre-suit discovery that a witness agrees to over the objections of other interested parties without making the findings required by Tex. Rule Civ. Proc. 202.4(a). See Ch. 10, *Depositions Before Suit*, § 10.03[3].

Committing Tort Subjects Defendant to Personal Jurisdiction. This release is updated to include *San Pedro Impulsora de Inmuebles Especiales, S.A. de C.V. v. Villarreal*, 330 S.W.3d 27, 40–41 (Tex. App.—Corpus Christi 2010, no pet.), in which the court of appeals held that being the recipient of a fraudulent transfer from Texas subjected a foreign defendant to Texas jurisdiction. See Ch. 32, *Personal Jurisdiction and Service on Nonresidents*, § 32.04[2][a][i].

Notice to Attorney General re: Constitutional Challenges. An amendment to the Government Code [see Tex. Gov't Code § 402.010(a)] requires the court to serve notice on the Texas Attorney General whenever a pleading challenges the constitutionality of a Texas statute; the court may not enter final judgment holding a Texas statute unconstitutional before the 45th day after the date notice is served. Discussion of this provision has been added to Ch. 70, *Answer* [see § 70.08].

Review of Vexatious Litigant Designa-

tion. The vexatious litigant statute has been amended to provide for appellate review of orders prohibiting a person from filing new litigation without permission [see Tex. Civ. Prac. & Rem. Code § 11.101(c)]. Discussion of this change has been added to Ch. 70, *Answer* [see § 70.07[2]].

Amended Procedures for Sua Sponte Recusal of Judges. Discussion of Tex. Gov't Code § 24.002, which was amended to clarify the procedures to be followed when a district judge determines, sua sponte, that the judge is disqualified or should recuse himself or herself, has been added to Ch. 110A, *Disqualification of Judge or Counsel* [see § 110A.03[2][a]].

Amended Procedures for Interlocutory Appeals. The Legislature substantially revised the statute allowing for permissive interlocutory appeals of orders involving controlling questions of law; among other changes, agreement of the parties is no longer a prerequisite to appeal [see Tex. Civ. Prac. & Rem. Code § 51.014(d–(f))]. The amended statute is discussed in Ch. 153, *Accelerated Appeals* [see § 153.02[1][b], 153.04].

New Electronic Filing Rules in Appellate Courts. The Texas Supreme Court promulgated rules to allow for electronic filing in the Supreme Court and to require an electronic copy of documents filed in paper form, as well as to allow the courts of appeals to adopt local rules to the same effect [see Tex. R. App. P. 9.2(c), 9.3; Texas Supreme Court Order, Misc. Docket 11-9033, Mar. 1, 2011; Texas Supreme Court Order, Misc. Docket 11-9118, Mar. 1, 2011]. These changes are discussed in Ch. 151, *Appellate Proceedings in Supreme Court* [see § 151.04[1][c][v], [vi]] and incorporated throughout Unit III: *Appellate Practice*.

Arbitration

FAA Preempts State Law Class Procedures. This publication is updated to include *AT&T Mobility LLC v. Concepcion*, 131 S. Ct. 1740, 1745–1753, 179 L. Ed. 2d 742 (2011), in which the U.S. Supreme Court held that the FAA preempts state law conditioning enforceability of certain arbitration agreements on availability of class-wide arbitration procedures. See Ch. 44, *Arbitration*, § 44.01[2][c].

Nonsignatories Bound by Arbitration Agreement. Chapter 44 includes an update including *In re Rubiola*, 334 S.W.3d 220, 224 (Tex. 2011), in which the Texas Supreme Court held that nonsignatories may be bound by an arbitration agreement if they are considered parties to the agreement, even if they have not signed it. See Ch. 44, *Arbitration*, § 44.02[1][c].

Trial Court Abused Discretion by Interfering with Arbitrator’s Interlocutory Ruling. This release is updated to include a discussion of *In re Aker Kvaerner/IHI*, 324 S.W.3d 891, 894–895 (Tex. App.—Houston [14th Dist.] 2010, no pet.) (mem. op.), in which the court of appeal held that a party may not seek to attack any of an arbitrator’s determinations in court until after the arbitrator has made a final award. See Ch. 44, *Arbitration*, § 44.06[3][c].

Order Not Listed In 9 U.S.C. § 16(a)(1) Not Subject to Interlocutory Appeal. This release includes a discussion of *CMH Homes v. Perez*, 54 Tex. Sup. Ct. J. 1098, 2011 Tex. LEXIS 390, *20 (Tex. 2011), in which the Texas Supreme Court held that an order appointing an arbitrator was not appealable, but was subject to mandamus relief. See Ch. 44, *Arbitration*, § 44.08[3].

Personal Injury and Tort Litigation

Legislation Alters Effect of Designation of Responsible Third Party on Statute of Limitations. Ch. 291, *Proportionate Responsibility; Contribution and Indem-*

nity, has been revised to reflect statutory changes made in the 2011 legislative session as to designation of responsible third parties and its consequences in relation to the expiration of the statute of limitations. Under former Tex. Civ. Prac. & Rem. Code § 33.004(e), a defendant’s designation lifted any limitations bar and permitted the claimant to assert direct claims against the designee. The 2011 legislation, however, repeals this provision; instead, Tex. Civ. Prac. & Rem. Code § 33.004(d) now provides that a defendant may not designate after limitations has expired if the defendant failed to comply with any obligation to timely disclose that the person may be designated as a responsible third party. The more recently enacted subdivision (d), however, is applicable only to causes of action commenced on or after Sept. 1, 2011 [*see* Acts 2011, 82d Leg., R.S., ch. 203, §§ 6.01, 6.02], so that actions pending on that date are governed by former subdivision (e) despite its repeal [*see* §§ 291.03[2][b], 291.124[1]].

Legislature Codifies Rules Regarding Liability to Trespassers and “Attractive Nuisance” Doctrine. Ch. 310, *Premises Liability*, has been revised to reflect the 2011 statutory codification [*see* Acts 2011, 82d Leg., R.S., ch. 101] of the rules governing the liability of an owner or occupier to a trespasser, including the common law doctrine of attractive nuisance. The legislature elected to codify these rules in light of the position of a draft of the Restatement of Torts recommending the recognition of a duty to exercise reasonable care as to all entrants on land, including trespassers. The legislation retains the common law rule that an owner has only the duty to refrain from injuring the trespasser willfully, wantonly, or through gross negligence [Tex. Civ. Prac. & Rem. Code § 75.007(b)] [*see* §§ 310.03, 310.101[1]].

Texas Supreme Court Construes Statute Limiting Recovery of Health Care Expenses in Tort Actions. Ch. 20, *Damages in Tort*, and Ch. 321, *Medical Malpractice*, have been revised to reflect the Texas Supreme Court's recent decision in *Haygood v. Garza de Escabedo*, 54 Tex. Sup. Ct. J. 1377, 1378–1379 (Tex. 2011), which construed Tex. Civ. Prac. & Rem. Code § 41.0105 limiting the recovery of medical or health care expenses to the amount “actually paid or incurred,” and held that: (1) when a provider accepts payment of less than original list rates, only the lower, adjusted amount computed under reimbursement rates may be recovered; and (2) this rule is an evidentiary one, so that the list rates initially charged are irrelevant, and only the reimbursement rates actually charged and collected may be offered as evidence [*see* § 20.02[1][b], § 321.13[1]].

Case Law Developments Regarding Federal Preemption in Product Liability Cases. Ch. 320, *Products Liability*, has been revised to reflect several recent decisions in the area of federal preemption, including:

- *Bic Pen Corp. v. Carter*, 54 Tex. Sup. Ct. J. 1168, 1170–1176 (Tex. 2011), holding that: (1) because a manufacturing defect claim depends on proof of a deviation from design or specifications, such a claim is not preempted by federal law even if federal regulations preempt a design defect claim; but (2) the jury verdict on the manufacturing defect claim was erroneous because the plaintiffs offered no evidence that the defect was a producing cause of the injuries [*see* §§ 320.03, 320.07, 320.09[3]].
- *Williamson v. Mazda Motor of Am., Inc.*, 131 S. Ct. 1131, 179 L.

Ed. 2d 75, 84–86 (2011), holding that although federal regulations permit a manufacturer to install either lap belts or lap-and-shoulder belts on rear inner seats of vehicles, a state law tort suit alleging a design defect for failure to provide lap-and-shoulder belts is not preempted [*see* § 320.09[3]].

- *PLIVA, Inc. v. Mensing*, 131 S. Ct. 2567, 180 L. Ed. 2d 580, 592–595 (2011), holding that state tort law requiring a generic drug manufacturer to unilaterally alter its warning labels is preempted because it would be impossible to comply with both state law and federal law mandating that the label be identical to the warning given by the brand name manufacturer of the equivalent drug [*see* § 320.09[3][b][i]].
- *Bruesewitz v. Wyeth LLC*, 131 S. Ct. 1068, 179 L. Ed. 2d 1, 10–13 (2011), holding that 42 U.S.C. § 300aa 22(b)(1) insulating vaccine manufacturer from liability for an injury that “resulted from side effects that were unavoidable even though the vaccine was properly prepared and was accompanied by proper directions and warnings” precludes a state law claim that the vaccine was defectively designed [*see* § 320.09[3][b][i]].

Medical Malpractice Chapter Reflects Recent Texas Supreme Court Decisions.

Ch. 321, *Medical Malpractice*, has been revised to reflect several recent decisions of the Texas Supreme Court, including:

- *Carreras v. Marroquin*, 54 Tex. Sup. Ct. J. 788, 791–793 (Tex. 2011), holding that presuit notice

of a health care liability claim as required by Tex. Civ. Prac. & Rem. Code § 74.051 must be accompanied by the prescribed authorization form for release of medical information or the notice will not toll the running of the two-year limitations period [*see* §§ 321.12[5][a], 321.14, 321.100[1], 321.101[1]].

- *Harris Methodist Fort Worth v. Ollie*, 54 Tex. Sup. Ct. J. 976, 978 (Tex. 2011) (per curiam), holding that a claim that a patient slipped and fell on the wet bathroom floor of her own hospital room during post-operative care is a health care liability claim and cannot be asserted as an ordinary negligence claim based on the hospital's alleged failure to clean or maintain the premises or warn of the potential hazard [*see* § 321.02[2]].
- *Omaha Healthcare Ctr., LLC v. Johnson*, 54 Tex. Sup. Ct. J. 1314, 1315–1316 (Tex. 2011), holding that when a patient in a nursing home died from a spider bite, a claim that the nursing home failed to clean and maintain premises in an appropriate fashion is a health care liability claim, not a premises liability claim, because the crux of the claim is that the provider failed to exercise the care required of an ordinarily prudent nursing home to protect and care for its patients [*see* § 321.02[2]].
- *Stockton v. Offenbach*, 336 S.W.3d 610, 616–619 (Tex. 2011), holding that: (1) the 120-day period for service of an expert report is measured from the date of the filing of the original petition, not the date of service of

citation, even if the period has already expired before citation is served; and (2) the claimant failed to exercise diligence because the claimant was aware of the problems in serving citation, but never sought to extend or otherwise seek relief from the 120-day period before it expired [*see* § 321.15[1][a]].

- *Scoresby v. Santillan*, 54 Tex. Sup. Ct. J. 1413, 1420–1422 (Tex. 2011), holding that a timely served expert report that implicates the defendant's conduct and contains a statement from a person with medical expertise that the claim has merit is sufficient to permit an extension order under Tex. Civ. Prac. & Rem. Code § 74.351(c), and that any defect in the qualifications of the expert or the omission of a required element of the report is a curable defect [*see* § 321.15[6][b][i]].
- *Samlowski v. Wooten*, 332 S.W.3d 404, 408, 424 (Tex. 2011), holding that: (1) an order refusing an extension to serve an expert report is reviewable only for abuse of the trial court's discretion; and (2) to demonstrate abuse, the claimant must show not only that the deficiencies of the initial report were curable, but also that they would have been cured if the extension had been granted [*see* § 321.15[6][b][ii]].

Recent Developments in Law of False Imprisonment. Ch. 330, *False Imprisonment*, has been revised to reflect recent developments under the Wrongful Imprisonment Act, Tex. Civ. Prac. & Rem. Code § 103.001 et seq., including:

- *In re Smith*, 333 S.W.3d 582,

586–590 (Tex. 2011), holding that the concurrent sentence restriction of the Act does not apply when the wrongful conviction causes the inmate to serve the concurrent sentence in prison, i.e., if the conviction causes the revocation of parole or probation relating to an earlier offense [*see* § 331.08[3]].

- Statutory amendments made in the 2011 legislative session that permit a claim for compensation under the Act when habeas relief is granted, the charge is dismissed, and the prosecutor states both that no credible evidence exists inculpating the defendant, and that the prosecutor believes that the defendant is actually innocent of the crime. Prior to these amendments, compensation was provided only if habeas relief was granted based on actual innocence [*see* § 331.08[3]].

Recent Texas Supreme Court Decision on Fraud in Real Estate Context. Ch. 336, *Fraud*, has been revised to reflect the Texas Supreme Court’s recent decision in *Italian Cowboy Partners, Ltd. v. Prudential Ins. Co. of Am.*, 54 Tex. Sup. Ct. J. 822, 828–832 (Tex. 2011), holding that: (1) a merger clause that lacks a specific disclaimer of reliance does not bar an action to set aside a contract based on fraudulent inducement; and (2) a commercial real estate agent’s representations that property to be leased for restaurant purposes was “practically new,” free of any problems, and “perfect” for the planned restaurant were material representations of fact, not expressions of opinion [*see* §§ 336.04, 336.05[1]].

First Amendment Limits Tort Liability for Intentional Infliction of Emotional Distress. Ch. 337, *Intentional Infliction of*

Emotional Distress, has been revised to reflect the decision of the United States Supreme Court in *Snyder v. Phelps*, ___ U.S. ___, 131 S. Ct. 1207, 179 L. Ed. 2d 172, 180–185 (2011), holding that the Free Speech Clause of the First Amendment is a defense in state tort suits, including suits for intentional infliction of emotional distress, so that picketers at a public site near the funeral services of a military service member could not be liable for protected speech on matters of public concern [*see* § 337.05[1]].

Recent Developments Regarding Tort Liability Arising Out of Animal Behavior. Ch. 290, *Negligence*, has been revised to reflect recent developments under Chapter 87 of the Civil Practices and Remedies Code, including:

- Statutory amendments made in the 2011 legislative session [*see* Acts 2011, 82d Leg., R.S., ch. 896] that broaden its applicability from horses and other equine animals to other kinds of farm animal activities involving livestock other than equines [*see* § 290.20[4][f]].
- *Loftin v. Lee*, 54 Tex. Sup. Ct. J. 895, 898–899 (Tex. 2011), holding that the Act precluded claims that the defendant was negligent in either selecting a trail to be ridden, or in failing to adequately assess the claimant’s ability to ride that trail [*see* § 290.20[4][f]].

Requirements for Tortious Interference with Contract. In *Faucette v. Chantos*, 322 S.W.3d 901, 914 (Tex. App.—Houston [14th Dist.] 2010, no pet. h.), the court of appeals held that although a third party is prohibited from tortiously interfering with a terminable-on-notice or terminable-at-will contract, merely inducing one of the parties to exercise its right to

terminate the contract after giving the required notice does not necessarily constitute tortious interference with contract. See § 205.02[1][c].

Workers' Compensation and Insurance Litigation

Public Entities Immune From Workers' Compensation Retaliation Claims. Ch. 340, *Worker's Compensation*, has been revised to reflect the Texas Supreme Court's recent decision in *Travis Cent. Appraisal Dist. v. Norman*, 54 Tex. Sup. Ct. J. 891, 893–895 (Tex. 2011), holding that Labor Code Chapter 504 does not clearly and unambiguously waive the governmental immunity of political subdivisions from claims under the Anti-Retaliation Law [see §§ 340.01[4], 340.42].

Vehicle Liability Policy Did Not Cover Spread of TB on School Bus. Ch. 341, *Liability Insurance*, has been revised to reflect the Texas Supreme Court's recent decision in *Lancer Ins. Co. v. Garcia Holiday Tours*, 54 Tex. Sup. Ct. J. 1452, 1456–1458 (Tex. 2011), holding that when a bus driver hired to transport a school band had tuberculosis and communicated it to several of the band members, those injuries did not result from the “use” of the bus. Instead, the bus was merely the physical site of the injury, which is an insufficient nexus for coverage under an auto liability policy [see § 341.14[2]].

Recent Case Regarding Waiver of Appraisal Clause in Property Insurance Policy. Ch. 343, *Property Insurance*, has been revised to reflect the Texas Supreme Court's recent decision in *In re Universal Underwriters of Tex. Ins. Co.*, 54 Tex. Sup. Ct. J. 931, 933–935 (Tex. 2011), holding that although inordinate delay by the insurer in seeking to invoke an appraisal clause may support a finding of waiver: (1)

the insurer is not required to demand appraisal until it is clear that the parties are at an impasse over the valuation issue; and (2) waiver will not be found unless the delay resulted in prejudice to the insured. See § 343.07[1].

Business and Commercial Litigation

New Statutory Requirements for Professional Entities Formed by Physicians and Physician Assistants. Various provisions have been added to the Texas Business Organizations Code, specifying requirements for legal entities formed by physicians and physician assistants to perform professional services. See § 160.22[6].

New Statutory Provisions on Self-dealing. Tex. Bus. Orgs. Code § 21.418 has been amended to describe in detail the circumstances that must exist for a contract or transaction between a corporation and related persons or entities to be enforceable. See § 160A.03[1].

New Requirements for Shareholder's Notice of Dissent. Tex. Bus. Orgs. Code § 10.356(b) has been amended to specify the requirements for a shareholder's notice of dissent to a proposed action that is to be submitted to a vote of the owners at a meeting. See § 161.03[1][b].

Courts May Stay Enforcement of Foreign Judgments to Allow Review under Section 33-2 of Texas Securities Act. This section has been added to the Act to allow for de novo review of foreign country judgments that involve a contract for sale, offer for sale, or sell under the Act, before they may be recognized or enforced. See § 171.07.

Courts Authorized to Issue Charging Order Against Partnership Interest. Courts have been given authority under Tex. Bus. Orgs. Code § 152.308 to charge a

judgment debtor's partnership interest on a judgment creditor's application. See § 180.34[3].

Spousal Interest in LLC Membership Defined by New Statutory Provisions. New provisions of the Tex. Bus. Orgs. Code describe the interest that a spouse has in the other spouse's membership interest in a limited liability company. See § 183.04[1].

Attorney's Fees Recoverable in Action Against Check Drawer. Chapter 22 now includes a discussion of *1/2 Price Checks Cashed v. United Automobile Insurance Co.*, 54 Tex. Sup. Ct. J. 1264, 2011 Tex. LEXIS 455, **7–28 (Tex. 2011), in which the Texas Supreme Court held that a claim by a check's holder against the drawer under Tex. Bus. & Com. Code § 3.414 is an action under a contract for which attorney's fees are available pursuant to Tex. Civ. Prac. & Rem. Code § 38.001(8). See Ch. 22, *Attorney's Fees*, § 22.20[2][a][i].

Court Holds UCC Article 2 Supercedes Inconsistent Common Law Rules. In *Wolf Hollow I, L.P. v. El Paso Marketing*, 329 S.W.3d 628, 637 (Tex. App.—Houston [14th Dist.] 2010, no pet. h.), the court of appeals held that when UCC Article 2 applies to a particular transaction, common law principles do not apply to that transaction to the extent that they conflict with the provisions of Article 2. See § 210.01[1][a].

Court of Appeals Defines Standards for Unconscionability. In *Chubb Lloyds Ins. v. Andrew's Restoration*, 323 S.W.3d 564, 572 (Tex. App.—Dallas 2010, pet. denied), the court of appeals held that a contract or contract term is not unconscionable merely because it is foolish for one party and very advantageous to the other party, but only when the inequity is so extreme as to shock the conscience. See

§ 210A.04[3][f][iv].

Enforceability of Liquidated Damage Clause. In *TXU Portfolio Mgmt. Co., L.P. v. FPL Energy, LLC*, 328 S.W.3d 580, 587–588 (Tex. App.—Dallas 2010, no pet. h.), the court of appeals held that the issue of whether a contractual provision is an enforceable liquidated damage clause or an unenforceable penalty is a question of law for the court. In making this determination, the court examines whether the harm caused by the prospective breach of the contract is incapable or difficult of estimation and whether the amount of the liquidated damages is a reasonable forecast of just compensation. See § 210A.42[2][c][i].

Liability under Telephone Consumer Protection Act. In *Smith & Associates v. Stealth Detection*, 327 S.W.3d 873, 878 (Tex. App.—Dallas 2010, no pet. h.), the court of appeals held that corporate officers with direct personal participation in or personal authorization of conduct that violates the TCPA are liable under it. See § 220A.03[7][b].

New Penalties for Failure to Give Notice of Breach of System Security. Civil penalties may be imposed against businesses under Tex. Bus. & Com. Code § 521.151(a-1), that fail to take reasonable action to notify each affected individual of a breach of the business's system security. See § 220A.10[1].

New Legislation Regarding Consumer Finance. The Texas Legislature added a number of new provisions in 2011 pertaining to consumer finance:

- Tex. Fin. Code §§ 348.601–348.605 have been added to specify requirements for debt cancellation agreements that include insurance coverage as part of the retail buyer's responsibility to the holder. See

§ 233.02[3][d][v].

- Tex. Fin. Code § 343.106 has been added to specify requirements for home loan payoff statements. See § 233.02[10][d].
- Credit access businesses that provide payday loans and motor vehicle title loans are subject to new regulations provided by Tex. Fin. Code §§ 393.221–393.224. See § 233.02[11].

Employment Litigation

Employment Contracts Outside Statute of Frauds. In *Abatement Inc. v. Williams*, 324 S.W.3d 858, 860–861 (Tex. App.—Houston [14th Dist.] 2010, no pet. h.), the court of appeals held that an employment contract was capable of being performed within one year and, therefore, was not subject to the statute of frauds writing requirement for purposes of the employee’s breach of contract and fraud action against the employer. The court noted that for the one-year provision to apply, performance within one year must be *impossible*. See § 203.11[2][a].

New Complaint Procedure for Service Member Denied Reemployment. New provisions of the Tex. Gov’t Code prescribe procedures for filing a complaint with the Texas Workforce Commission Civil Rights Division by a member of the military who has been denied reemployment after the member was ordered to training or duty. See § 203.36.

180-day Deadline for Filing complaint under TCHRA Not Affected by Recent Federal Fair Pay Legislation. In *Tarrant Regional Water Dist. v. Villanueva*, 331 S.W.3d 125, 131–134 (Tex. App.—Fort Worth 2010, no pet. h.), the court of appeals held that the 180-day deadline imposed by Tex. Lab. Code § 21.202(a) for filing a discrimination complaint under the

TCHRA does not automatically incorporate the Lilly Ledbetter Fair Pay Act of 2009, which amended Title VII to clarify that for purposes of determining the timeliness of a lawsuit, a discriminatory compensation decision or other unlawful practice occurs each time compensation is paid pursuant to the discriminatory compensation decision or other practice. See § 203A.21[3][b][i].

Texas Workforce Commission Records that May Not Be disclosed. Tex. Lab. Code § 21.305 has been amended to specify information furnished to the Commission in connection with an administrative complaint that is not considered public information and which the Commission is prohibited from disclosing. See § 203A.21[3][c][iii].

Required Report in Whistleblower Action. In *Leach v. Texas Tech Univ.*, 335 S.W.3d 386, 395–396 (Tex. App.—Amarillo 2011, pet. filed), the court of appeals held that a former employee of a state university is not considered to have made a report to an appropriate law enforcement authority for purposes of the Whistleblower Act by filing suit against the university. See § 203A.22[1][b][iv].

Real Estate Litigation

Recent Legislation and Case Law Affecting Eminent Domain Proceedings. Ch. 261, *Condemnation*, has been revised to reflect several recent developments in the area of eminent domain, including:

- The adoption of the Truth in Condemnation Procedures Act during the 2011 legislative session. This Act contains numerous substantive and procedural provisions affecting exercise of the power of eminent domain. Under the Act, in any condemnation proceeding brought on or after Sept. 1, 2011 [see Acts 2011, 82d Leg., R.S., ch.

81, §§ 24, 27 (effective date)], a government entity exercising the power of eminent domain must both authorize the initiation of the condemnation proceeding at a public meeting by a record vote, and include in its prior notice for that meeting under the Open Meetings Act the consideration of the use of eminent domain as an agenda item. The Act also requires the entity to make a bona fide offer to acquire the property from the owner voluntarily before filing a petition for condemnation [see §§ 261.01[3][b], [d], 261.02[1][a]].

- *City of Dallas v. Stewart*, 54 Tex. Sup. Ct. J. 1348, 1353–1361 (Tex. 2011), holding that the decision of a city’s urban standards board that an abandoned residence was a nuisance did not preclude an inverse condemnation suit for demolition of the structure because whether the condition constitutes a nuisance that may be abated without compensation is ultimately a question for the judiciary [see §§ 261.01[3][e], 261.03[1], [2]].
- *Reid Rd. Municipal Utility Dist. No. 2 v. Speedy Stop Food Stores, Ltd.*, 54 Tex. Sup. Ct. J. 658, 665–667 (Tex. 2011), in which the Texas Supreme Court construed the Property Owner Rule permitting an owner to testify as to the value of condemned property without qualifying as an expert witness, and held that: (1) the rule is available to artificial entities; and (2) the individual offering such testimony must be an officer of the entity in a managerial position with duties related to the

property, or an employee with substantially equivalent positions and duties [see § 261.01[3][f][i]].

- *State v. Petropoulos*, 54 Tex. Sup. Ct. J. 1133, 1137–1138 (Tex. 2011), a partial takings case in which the owner failed to offer any evidence that the taking of a portion of the tract caused any damages to the remainder, so the owner’s recovery was limited to the market value of the portion taken [see § 261.01[3][f][v]].

2011 Legislation Affecting Real Property Sales. The Legislature enacted a number of bills relating to sales and conveyances of real property, including the following:

- Ch. 252, *Real Estate Sales Contracts*, and Ch. 255, *Real Property Security Interests*, have been revised to reflect the adoption of Chapter 21 of the Business and Commerce Code during the 2011 legislative session. Under this statute, a seller of residential real property may not, before or at the time of the conveyance to the purchaser, request or require the purchaser to execute and deliver a deed conveying the property to the seller [see §§ 252.01[3][a], 255.03[4][f]].
- Ch. 254, *Deeds and Conveyances*, has been revised to reflect statutory changes made in the 2011 legislative session that codify the appropriate uses of correction deeds, or correction “instruments” as the statute refers to them. Most notably, the Act overrules the decision of the Texas Supreme Court in *Myrad Props., Inc. v. Lasalle Bank Nat’l Ass’n*, 300 S.W.3d 746, 750–751 (Tex. 2009) that a

correction instrument may not be used to convey an additional parcel of land when the property description in the original deed was correct. The requirements for a correction instrument differ based on whether the correction made relates to a material term of the original deed or a nonmaterial term [see § 254.02[4][b]].

- Ch. 252, *Real Estate Sales Contracts*, and Ch. 285, *Restrictions*, have been revised to reflect the adoption of Subchapter G of Chapter 5 of the Property Code during the 2011 legislative session. This Act regulates a private transfer fee, which is an amount of money payable on the transfer of an interest in real property or payable for a right to make or accept a transfer. Any such obligation created on or after June 17, 2011 [see Acts 2011, 82d Leg., R.S., ch. 211, § 4] is void and not binding or enforceable against a subsequent owner or subsequent purchaser of an interest in real property. Preexisting fee obligations are also unenforceable unless statutory prerequisites to enforcement are satisfied [see §§ 252.18, 285.07].

Landlord-Tenant Law Developments. Ch. 282, *Landlord and Tenant*, has been revised to reflect statutory changes made in the 2011 legislative session, and to include the Texas Supreme Court's recent decision in *Italian Cowboy Partners, Ltd. v. Prudential Ins. Co. of Am.*, 54 Tex. Sup. Ct. J. 822, 837–838 (Tex. 2011), holding that when a commercial landlord breaches the implied warranty of suitability, the court may order rescission of the lease, as well as any damages necessary to restore the tenant to

the position it would have occupied had the landlord not breached the implied warranty [see §§ 282.04, 282.20[2], 282.41, 282.42[6]].

Waiver of Mechanics' Liens Voided by Legislation. Ch. 271, *Mechanic's and Materialmen's Liens*, has been revised to reflect the adoption of Subchapter L of Chapter 53 of the Property Code during the 2011 legislative session. Under this legislation, any contract, agreement, or understanding purporting to waive the right to file or enforce any lien or claim created under Chapter 53 is against public policy and therefore void [see § 271.02[10]].

Property Tax Litigation Developments. Ch. 260, *Real Property Tax Suits*, has been revised to reflect statutory changes made in the 2011 legislative session, and to include the Texas Supreme Court's recent decision in *Genesis Tax Loan Servs. v. Kothmann*, 54 Tex. Sup. Ct. J. 988, 990 (Tex. 2011), holding that in a lien priority dispute between a purchase money lienholder and a tax lien transferee, the defendant's claim that the tax lien is superior is not an affirmative defense; instead, the plaintiff must prove both the validity of its own lien and that the superior tax lien is invalid [see § 260.03[1][b]].

Texas Supreme Court Rules on Adverse Possession in Oil and Gas Lease Context. Ch. 250, *Adverse Possession*, has been revised to reflect the Texas Supreme Court's recent decision in *BP Am. Prod. Co. v. Marshall*, 342 S.W.3d 59 (Tex. 2011), that the payment of a royalty under an oil and gas lease rather than a cotenant's share of production was a repudiation of the cotenancy and an assertion of a lessor/lessee relationship, so the producer that made the payments acquired title to the mineral interest defined by the original lease by adverse possession [see §§ 250.01,

250.02[1], 250.03[1], [3], 250.04[3], 250.06].

Exemption under DTPA for Real Estate Licensees. Under 2011 legislation, claims against persons licensed as real estate brokers or salespersons, arising from their acts or omissions while acting in their professional capacity, are generally exempt from the DTPA, with certain exceptions specified in Tex. Bus. & Com. Code § 17.49(i). See § 220.01[5][c].

Family Law Proceedings

Legislative Changes Re: Spousal Maintenance. The discussion of spousal maintenance has been revised to reflect the 82nd Legislature's overhaul of Family Code Chapter 8 to make several substantive changes and clarify formerly vague provisions. The maximum duration of maintenance now varies depending on the length of the marriage, and the maximum monthly amount has been raised to \$5,000. See § 362.07.

Legislature Codifies Remedy for "Fraud on the Community." The coverage of fraud on the community has been revised to reflect new Family Code Section 7.009, which codifies the remedy for fraud on the community described in *Schlueter v. Schlueter* [975 S.W.2d 584 (Tex. 1998)]. When a spouse has committed fraud on the community, the court calculates the total value of the community estate that would exist but for the fraud, then divides the value of the reconstituted estate in a just and right manner. The wronged spouse may be awarded a share of the remaining community estate, a money judgment, or both. See § 363.54[11].

Statutory Amendments Affect "Authorization Agreements" Regarding Minor Children. The discussion of authorization agreements, which were introduced in 2009 to enable nonparents to perform specified

actions on a child's behalf, has been updated to reflect recent amendments allowing only one authorization agreement to be in effect for a child at a time. New notice requirements now protect the nonparty parent. See § 371.15.

Possession Orders for Child Under Age of Three Years. The discussion of possession orders has been revised to reflect the addition to the Family Code of a list of 13 factors a court must consider in rendering an order for possession of a child under the age of three. See § 371.08[4].

Recent Case Law on Income Withholding to Enforce Child Support. The coverage of income withholding to enforce child support obligations has been updated to reflect the holding in *Horton v. Horton* [335 S.W.3d 862, 866–867 (Tex. App.—Beaumont 2011, no pet. h.)] that child support may be enforced by income withholding no matter how long ago the arrearage accrued, and Social Security retirement benefits are subject to income withholding. See §§ 372.03[4][a], 372.110[1][d].

Limitations Removed on Proceedings to Rebut Presumed Paternity. The discussion of presumed paternity has been revised to reflect the new statute eliminating the statute of limitation for suits seeking to rebut presumed paternity if the presumed father was precluded from commencing a proceeding to adjudicate parentage earlier because of misrepresentations that he was the child's biological father. See § 380.02[3].

New Procedure for Rescinding Acknowledgment of Paternity. The coverage of acknowledgments of paternity has been modified to reflect that rescission of an acknowledgment or denial of paternity no longer requires a judicial proceeding, and may now be accomplished by filing a form with the bureau of vital statistics. A

proceeding to challenge an acknowledgment or denial of paternity must now be commenced before an order affecting the child is issued, rather than at any time within four years of the acknowledgment or denial as before. See § 380.03[3], [4].

New Statutory Remedy for Mistaken Belief in Paternity. The discussion of termination of parental rights has been expanded to include a new remedy never before available in Texas, enacted in 2011. Under this new statutory provision, a man who has signed an acknowledgment of paternity or has been adjudicated to be a child's father without obtaining genetic testing may file a petition to terminate the parent-child relationship between himself and the child. If the man establishes a prima facie case that he signed the acknowledgment or was adjudicated as the child's father due to a mistaken belief that he was the child's genetic father based on misrepresentations that led him to that conclusion, the court will order genetic testing. If testing shows the man is not the child's father, the court must terminate the parent-child relationship, and this ends the man's duty to pay future child support. See §§ 380.03[5], 381.02[2], 381.100A.

Legislation on Appeals in DFPS Termination Suits. The coverage of appeals in DFPS-initiated termination suits has been revised in light of the significant amendments to this area of the law. Under the new scheme, an attorney ad litem appointed to represent the parent at trial continues to represent the parent on appeal, and once a parent is found indigent, the parent is presumed to remain indigent for the duration of the suit and any subsequent appeal. The provisions in Family Code Section 263.405 concerning statements of appellate points and frivolousness hearings have been repealed, and the Texas Supreme Court has been directed to adopt procedural

rules for these appeals by March 1, 2012. See §§ 381.05[4], 381.10[1].

Probate Proceedings

Venue Rules in Probate Proceedings Revised. New provisions have been added to the Texas Probate Code [*see* Tex. Prob. Code §§ 6A–6D] specifying venue in actions related to probate proceedings, certain actions involving personal representatives, heirship proceedings, and certain actions involving breaches of fiduciary duties. See §§ 391.07, 392.02[2].

Relief from Time Limit for Filing Application to Probate Will. In *In re Estate of Perez*, 324 S.W.3d 257, 263 (Tex. App.—El Paso 2010, no pet. h.), the court of appeals held that a court may find that a proponent of a will was not in default in filing an application for probate if the proponent believed that it was not necessary to probate the will and was unaware that there was a time limit for doing so. See § 392.04.

Alternative Method of Proof of Execution of Will Added by Legislature. Tex. Prob. Code § 59(a-1) has been added to provide that as an alternative to the self-proving of a will by the affidavits of the testator and the attesting witnesses, a will may be simultaneously executed, attested, and made self-proved before an officer who is authorized to administer oaths. See § 392.07[7][b][ii].

Court May Not Sua Sponte Raise Grounds for Opposition to Application for Letters Testamentary. In *Guyton v. Monteau*, 332 S.W.3d 687, 691–692 (Tex. App.—Houston [14th Dist.] 2011, no pet. h.), the court of appeals held that a court should only consider those grounds for disqualification of the applicant alleged and proved by the party opposing the application for appointment, and should not raise additional grounds for disqualification on

its own motion because, by doing so, the court arguably shifts the burden of proof from the opposing party. See § 393.02[2][a].

Legislation Permits Filing of Affidavit in Lieu of Inventory and Appraisal. Independent executors now have authority under Tex. Prob. Code § 250 to file an affidavit in lieu of an inventory and appraisal in specified cases. See § 400.02[3].

Award of Attorney's Fees to Beneficiaries. In *In re Estate of Vrana*, 335 S.W.3d 322, 326–327 (Tex. App.—San Antonio 2010, pet. denied), the court of appeals held that a court may assess attorney's fees against an executor in favor of the beneficiaries under the will who secured the executor's removal. See § 400.08[2][c].

Independent Executor's Power to Sell Property. Tex. Prob. Code §§ 145A–145C have been added to give an independent executor the power to sell estate real property under specified circumstances. See

§ 400.10[3].

2005 Texas Business Organizations Code Pamphlet. In this release, the 2005 Special Alert pamphlet describing the enactment of the Texas Business Organizations Code is being removed. The Code has now been fully incorporated into the text of the *Texas Litigation Guide*. Customers may wish to retain the pamphlet separately for the historical background contained therein.

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Publication 719 Release 103

November 2011

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<input type="checkbox"/>	Title page thru xiii	Title page thru xv
<input type="checkbox"/>	2-17 thru 2-35	2-17 thru 2-35
<input type="checkbox"/>	3-10.1 thru 3-11.	3-11 thru 3-12.1
<input type="checkbox"/>	3-33	3-33
<input type="checkbox"/>	3-41	3-41 thru 3-42.1
<input type="checkbox"/>	3-59	3-59
<input type="checkbox"/>	3-119 thru 3-121	3-119 thru 3-121
<input type="checkbox"/>	3-157 thru 3-163	3-157 thru 3-163
<input type="checkbox"/>	4-3 thru 4-14.1	4-3 thru 4-14.1
<input type="checkbox"/>	4-31	4-31 thru 4-32.1
<input type="checkbox"/>	4-49	4-49
<input type="checkbox"/>	10-5 thru 10-21	10-5 thru 10-22.1
<input type="checkbox"/>	10-31.	10-31
<input type="checkbox"/>	11-1 thru 11-3.	11-1 thru 11-3
<input type="checkbox"/>	11-37 thru 11-45	11-37 thru 11-43
<input type="checkbox"/>	12-13 thru 12-15	12-13 thru 12-15
<input type="checkbox"/>	12-37.	12-37
<input type="checkbox"/>	12-88.1 thru 12-93	12-89 thru 12-93
<input type="checkbox"/>	13-31.	13-31 thru 13-32.1

VOLUME 2

Revision

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<input type="checkbox"/>	20-46.19 thru 20-50.2(11)	20-47 thru 20-50.2(19)
<input type="checkbox"/>	No Material removed	SAch22-1 (file preceding 22-1)
<input type="checkbox"/>	22-7	22-7
<input type="checkbox"/>	22-17 thru 22-23	22-17 thru 22-23
<input type="checkbox"/>	22-71 thru 22-74.1	22-71 thru 22-74.1
<input type="checkbox"/>	22-109	22-109 thru 22-110.1
<input type="checkbox"/>	30-5	30-5 thru 30-6.1
<input type="checkbox"/>	31-1 thru 31-7	31-1 thru 31-8.1
<input type="checkbox"/>	31-16.1 thru 31-17	31-17 thru 31-18.1
<input type="checkbox"/>	31-27 thru 31-35	31-27 thru 31-35
<input type="checkbox"/>	31-103 thru 31-113	31-103 thru 31-111
<input type="checkbox"/>	32-11 thru 32-22.1	32-11 thru 32-22.1
<input type="checkbox"/>	32-127 thru 32-133	32-127 thru 32-133

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VOLUME 3

Revision

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| <input type="checkbox"/> | 44-9 thru 44-24.1 | 44-9 thru 44-24.1 |
| <input type="checkbox"/> | 44-34.1 | 44-34.1 |
| <input type="checkbox"/> | 44-45 thru 44-57 | 44-45 thru 44-58.1 |
| <input type="checkbox"/> | 44-62.5 | 44-62.5 |
| <input type="checkbox"/> | 44-135 thru 44-136.1 | 44-135 thru 44-136.1 |
| <input type="checkbox"/> | 44-145 thru 44-151 | 44-145 thru 44-153 |
| <input type="checkbox"/> | 45-11 thru 45-13 | 45-11 thru 45-13 |
| <input type="checkbox"/> | 45-25 thru 45-30.1 | 45-25 thru 45-30.1 |
| <input type="checkbox"/> | 45-83 thru 45-85 | 45-83 thru 45-85 |

VOLUME 4

Revision

- | | | |
|--------------------------|---------------------|------------|
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| <input type="checkbox"/> | 50-9 | 50-9 |

VOLUME 5

Revision

- | | | |
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| <input type="checkbox"/> | 70-3 | 70-3 thru 70-4.1 |
| <input type="checkbox"/> | 70-95 thru 70-96.1 | 70-95 thru 70-96.1 |
| <input type="checkbox"/> | 72-9 thru 72-13 | 72-9 thru 72-14.1 |
| <input type="checkbox"/> | 72-23. | 72-23 |
| <input type="checkbox"/> | 72-39. | 72-39 |
| <input type="checkbox"/> | 72-60.15 | 72-60.15 thru 72-60.16(1) |
| <input type="checkbox"/> | 72-91. | 72-91 |
| <input type="checkbox"/> | 80-9 thru 80-11 | 80-9 thru 80-11 |

VOLUME 6

Revision

- | | | |
|--------------------------|---------------------------------|------------------------|
| <input type="checkbox"/> | Title page. | Title page |
| <input type="checkbox"/> | 90-26.1 thru 90-30.3. | 90-27 thru 90-30.3 |
| <input type="checkbox"/> | 90-114.5 thru 90-114.9. | 90-114.5 thru 90-114.9 |
| <input type="checkbox"/> | 92-9 thru 92-11 | 92-9 thru 92-12.1 |
| <input type="checkbox"/> | 92-22.1 thru 92-24.5. | 92-23 thru 92-24.7 |
| <input type="checkbox"/> | 98-39. | 98-39 |

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VOLUME 7

Revision

<input type="checkbox"/>	Title page.	Title page
<input type="checkbox"/>	101-22.2(1)	101-22.2(1)
<input type="checkbox"/>	102-16.1 thru 102-23	102-17 thru 102-24.1
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<input type="checkbox"/>	102-43 thru 102-45	102-43 thru 102-45
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<input type="checkbox"/>	103-29 thru 103-33	103-29 thru 103-34.1
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<input type="checkbox"/>	110A-24.1 thru 110A-24.2(1).	110A-24.1 thru 110A-24.2(1)
<input type="checkbox"/>	112-8.1 thru 112-9.	112-9
<input type="checkbox"/>	113-29 thru 113-31	113-29 thru 113-31
<input type="checkbox"/>	114-24.2(1)	114-24.2(1)

VOLUME 8

Revision

<input type="checkbox"/>	Title page.	Title page
<input type="checkbox"/>	120-15 thru 120-25	120-15 thru 120-25
<input type="checkbox"/>	120A-89 thru 120A-95	120A-89 thru 120A-95
<input type="checkbox"/>	123-51	123-51

VOLUME 9

Revision

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<input type="checkbox"/>	131-39 thru 131-41	131-39 thru 131-41
<input type="checkbox"/>	133-10.1 thru 133-15	133-11 thru 133-15
<input type="checkbox"/>	133-69 thru 133-71	133-69 thru 133-71
<input type="checkbox"/>	134-9 thru 134-20.1	134-9 thru 134-19
<input type="checkbox"/>	134-45 thru 134-51	134-45 thru 134-51
<input type="checkbox"/>	134-61 thru 134-65	134-61 thru 134-65
<input type="checkbox"/>	134-77 thru 134-83	134-77 thru 134-81

VOLUME 10

Revision

<input type="checkbox"/>	Title page.	Title page
<input type="checkbox"/>	145-47 thru 145-50.1	145-47 thru 145-50.1
<input type="checkbox"/>	147-25 thru 147-27	147-25 thru 147-27

Check As Done	<i><u>Remove Old Pages Numbered</u></i>	<i><u>Insert New Pages Numbered</u></i>
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<input type="checkbox"/>	148-50.7 thru 148-50.9	148-50.7 thru 148-50.9
<input type="checkbox"/>	149-45	149-45 thru 149-46.1
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<input type="checkbox"/>	153-22.1 thru 153-34.1	153-23 thru 153-34.1
<input type="checkbox"/>	153-42.1 thru 153-55	153-43 thru 153-75

VOLUME 11

Revision

- | | | |
|--------------------------|---------------------|------------|
| <input type="checkbox"/> | Title page. | Title page |
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|--------------------------|---|-----------------------|

Revision

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|--------------------------|---------------------------------|----------------------|
| <input type="checkbox"/> | 160-3 thru 160-13 | 160-3 thru 160-13 |
| <input type="checkbox"/> | 160-23 thru 160-45 | 160-23 thru 160-47 |
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| <input type="checkbox"/> | 160A-12.1 thru 160A-19. | 160A-13 thru 160A-19 |
| <input type="checkbox"/> | 161-3 thru 161-31. | 161-3 thru 161-31 |
| <input type="checkbox"/> | 162-8.1 thru 162-55 | 162-9 thru 162-56.1 |
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| <input type="checkbox"/> | 165-45 thru 165-47 | 165-45 thru 165-47 |

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<input type="checkbox"/>	170-33 thru 170-39	170-33 thru 170-40.1
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<input type="checkbox"/>	171-43 thru 171-53	171-43 thru 171-54.9
<input type="checkbox"/>	171-71 thru 171-75	171-71 thru 171-75

VOLUME 12

Revision

<input type="checkbox"/>	Title page.	Title page
<input type="checkbox"/>	180-3 thru 180-45	180-3 thru 180-45
<input type="checkbox"/>	180-65	180-65
<input type="checkbox"/>	181-15	181-15
<input type="checkbox"/>	181-27 thru 181-35	181-27 thru 181-36.1
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<input type="checkbox"/>	182-7 thru 182-27	182-7 thru 182-28.5
<input type="checkbox"/>	182-35 thru 182-37	182-35 thru 182-37
<input type="checkbox"/>	182-79	182-79
<input type="checkbox"/>	183-6.1 thru 183-27	183-7 thru 183-28.1
<input type="checkbox"/>	190-7	190-7 thru 190-8.1
<input type="checkbox"/>	191-9 thru 191-13	191-9 thru 191-14.1

VOLUME 13

Revision

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<input type="checkbox"/>	200-65 thru 200-75	200-65 thru 200-75
<input type="checkbox"/>	200-93 thru 200-95	200-93 thru 200-95
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<input type="checkbox"/>	203-78.1 thru 203-87	203-79 thru 203-88.3
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<input type="checkbox"/>	203A-167 thru 203A-169	203A-167 thru 203A-169
<input type="checkbox"/>	204-99 thru 204-105	204-99 thru 204-101
<input type="checkbox"/>	205-9 thru 205-20.1	205-9 thru 205-20.1

Check As Done	<i>Remove Old Pages Numbered</i>	<i>Insert New Pages Numbered</i>
<input type="checkbox"/>	205-67 thru 205-71	205-67 thru 205-71

VOLUME 14

Revision

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<input type="checkbox"/>	212-65 thru 212-69	212-65 thru 212-67
<input type="checkbox"/>	213-9 thru 213-11	213-9 thru 213-11
<input type="checkbox"/>	214-5.	214-5
<input type="checkbox"/>	216-25	216-25 thru 216-26.1
<input type="checkbox"/>	220-1 thru 220-32.1	220-1 thru 220-32.3
<input type="checkbox"/>	220-45 thru 220-48.3	220-45 thru 220-48.3
<input type="checkbox"/>	220-63 thru 220-73	220-63 thru 220-73
<input type="checkbox"/>	220-83 thru 220-93	220-83 thru 220-93
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<input type="checkbox"/>	220A-41 thru 220A-51	220A-41 thru 220A-52.1
<input type="checkbox"/>	221-87	221-87
<input type="checkbox"/>	221-143	221-143

VOLUME 15

Revision

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<input type="checkbox"/>	230-37	230-37
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<input type="checkbox"/>	231-13 thru 231-15	231-13 thru 231-16.1
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<input type="checkbox"/>	234-43 thru 234-44.1	234-43

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Pages Numbered*

VOLUME 16

Revision

<input type="checkbox"/>	Title page.	Title page
<input type="checkbox"/>	235-1.	235-1
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<input type="checkbox"/>	235-31 thru 235-34.1	235-31 thru 235-34.1
<input type="checkbox"/>	235-43 thru 235-55	235-43 thru 235-55
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<input type="checkbox"/>	236-73	236-73
<input type="checkbox"/>	236-97	236-97
<input type="checkbox"/>	236-109 thru 236-113	236-109 thru 236-113
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<input type="checkbox"/>	240-89	240-89
<input type="checkbox"/>	241-9 thru 241-34.3	241-9 thru 241-33
<input type="checkbox"/>	241-43	241-43
<input type="checkbox"/>	242-51 thru 242-53	242-51 thru 242-53

VOLUME 17

Revision

<input type="checkbox"/>	Title page.	Title page
<input type="checkbox"/>	250-5 thru 250-11	250-5 thru 250-11
<input type="checkbox"/>	250-29 thru 250-35	250-29 thru 250-33
<input type="checkbox"/>	250-47 thru 250-52.1	250-47 thru 250-52.3
<input type="checkbox"/>	250-85 thru 250-89	250-85 thru 250-87
<input type="checkbox"/>	252-4.1	252-4.1
<input type="checkbox"/>	252-17 thru 252-25	252-17 thru 252-26.5
<input type="checkbox"/>	252-47 thru 252-52.3	252-47 thru 252-52.5
<input type="checkbox"/>	252-70.3 thru 252-70.4(1)	252-70.3 thru 252-70.4(1)
<input type="checkbox"/>	253-11 thru 253-23	253-11 thru 253-23
<input type="checkbox"/>	254-1 thru 254-11	254-1 thru 254-12.3
<input type="checkbox"/>	254-43 thru 254-44.1	254-43 thru 254-44.1
<input type="checkbox"/>	254-61 thru 254-62.1	254-61 thru 254-62.1
<input type="checkbox"/>	255-19 thru 255-20.1	255-19 thru 255-20.1
<input type="checkbox"/>	255-31 thru 255-34.9	255-31 thru 255-34.11
<input type="checkbox"/>	255-45 thru 255-46.1	255-45 thru 255-46.1
<input type="checkbox"/>	256-9 thru 256-13	256-9 thru 256-14.1
<input type="checkbox"/>	260-8.1 thru 260-35	260-9 thru 260-36.3
<input type="checkbox"/>	260-45 thru 260-47	260-45 thru 260-48.1
<input type="checkbox"/>	260-82.1 thru 260-93	260-83 thru 260-94.63
<input type="checkbox"/>	261-1 thru 261-68.6(2)(a)	261-1 thru 261-68.6(2)(ai)
<input type="checkbox"/>	261-68.7 thru 261-76.1	261-69 thru 261-76.5

Check
As
Done

Remove Old
Pages Numbered

Insert New
Pages Numbered

VOLUME 18

Revision

<input type="checkbox"/>	Title page.	Title page
<input type="checkbox"/>	271-3 thru 271-45.	271-3 thru 271-46.5
<input type="checkbox"/>	271-55 thru 271-57	271-55 thru 271-58.3
<input type="checkbox"/>	271-85	271-85
<input type="checkbox"/>	271-95 thru 271-111.	271-95 thru 271-105
<input type="checkbox"/>	280-13 thru 280-14.1	280-13 thru 280-14.1
<input type="checkbox"/>	280-25 thru 280-26.1	280-25 thru 280-26.1
<input type="checkbox"/>	281-47	281-47 thru 281-48.1
<input type="checkbox"/>	281-56.1 thru 281-56.3	281-56.1 thru 281-56.3
<input type="checkbox"/>	282-1 thru 282-10.1	282-1 thru 282-10.1
<input type="checkbox"/>	282-20.1 thru 282-22.5	282-21 thru 282-22.7
<input type="checkbox"/>	282-41 thru 282-45	282-41 thru 282-46.1
<input type="checkbox"/>	282-82.3 thru 282-82.13	282-82.3 thru 282-82.17
<input type="checkbox"/>	282-88.1 thru 282-91	282-89 thru 282-92.3
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<input type="checkbox"/>	282-140.1 thru 282-141	282-141
<input type="checkbox"/>	283-33 thru 283-38.1	283-33 thru 283-38.1
<input type="checkbox"/>	283-40.5 thru 283-40.6(1)	283-40.5 thru 283-40.6(1)
<input type="checkbox"/>	283-65 thru 283-66.1	283-65 thru 283-66.1
<input type="checkbox"/>	283-139 thru 283-141	283-139 thru 283-141
<input type="checkbox"/>	285-3 thru 285-5	285-3 thru 285-5
<input type="checkbox"/>	285-24.1 thru 285-24.3	285-24.1 thru 285-24.3
<input type="checkbox"/>	285-33 thru 285-46.11	285-33 thru 285-46.23

VOLUME 19

Revision

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<input type="checkbox"/>	290-56.5 thru 290-62.1	290-57 thru 290-62.5
<input type="checkbox"/>	290-85 thru 290-89	290-85 thru 290-89
<input type="checkbox"/>	291-27 thru 291-30.7	291-27 thru 291-30.9
<input type="checkbox"/>	291-119	291-119 thru 291-120.1
<input type="checkbox"/>	293-13	293-13 thru 293-14.1
<input type="checkbox"/>	293-33 thru 293-35	293-33 thru 293-36.1
<input type="checkbox"/>	293-131	293-131 thru 293-132.1
<input type="checkbox"/>	293-136.4(11) thru 293-136.9	293-136.5 thru 293-136.15
<input type="checkbox"/>	300-21	300-21 thru 300-22.1
<input type="checkbox"/>	302-32.1 thru 302-32.5	302-32.1 thru 302-32.5
<input type="checkbox"/>	310-1.	310-1
<input type="checkbox"/>	310-15 thru 310-16.1	310-15 thru 310-16.1

Check As Done	<i>Remove Old Pages Numbered</i>	<i>Insert New Pages Numbered</i>
<input type="checkbox"/>	310-25 thru 310-31	310-25 thru 310-32.1
<input type="checkbox"/>	310-60.1 thru 310-60.3	310-60.1 thru 310-60.3
<input type="checkbox"/>	310-73 thru 310-81	310-73 thru 310-79
<input type="checkbox"/>	311-5.	311-5 thru 311-6.1
<input type="checkbox"/>	311-23 thru 311-25	311-23 thru 311-26.1

VOLUME 20

Revision

<input type="checkbox"/>	Title page.	Title page
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<input type="checkbox"/>	320-16.1 thru 320-17	320-17 thru 320-18.1
<input type="checkbox"/>	320-47	320-47 thru 320-48.1
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<input type="checkbox"/>	321-5 thru 321-26.7	321-5 thru 321-26.9
<input type="checkbox"/>	321-49	321-49
<input type="checkbox"/>	321-80.1 thru 321-99	321-81 thru 321-100.7
<input type="checkbox"/>	321-104.9 thru 321-104.14(5)	321-104.9 thru 321-104.14(9)
<input type="checkbox"/>	321-129 thru 321-132.1	321-129 thru 321-132.1
<input type="checkbox"/>	321-175 thru 321-181	321-175 thru 321-181
<input type="checkbox"/>	322-54.3 thru 322-54.4(3)	322-54.3 thru 322-54.4(3)
<input type="checkbox"/>	330-9.	330-9
<input type="checkbox"/>	330-33 thru 330-49	330-33 thru 330-47
<input type="checkbox"/>	331-20.1 thru 331-30.3	331-21 thru 331-30.5
<input type="checkbox"/>	332-24.1 thru 332-24.3	332-24.1 thru 332-24.3
<input type="checkbox"/>	333-3 thru 333-7	333-3 thru 333-7
<input type="checkbox"/>	333-43	333-43 thru 333-44.1
<input type="checkbox"/>	333-78.3	333-78.3 thru 333-78.5
<input type="checkbox"/>	335A-11	335A-11
<input type="checkbox"/>	335A-71 thru 335A-77	335A-71 thru 335A-77
<input type="checkbox"/>	335A-103.	335A-103
<input type="checkbox"/>	336-15 thru 336-35	336-15 thru 336-36.1
<input type="checkbox"/>	336-50.1 thru 336-52.1	336-51 thru 336-52.3
<input type="checkbox"/>	336-73 thru 336-77	336-73 thru 336-79
<input type="checkbox"/>	337-25 thru 337-26.1	337-25 thru 337-26.1

VOLUME 21

Revision

<input type="checkbox"/>	Title page.	Title page
<input type="checkbox"/>	340-13 thru 340-15	340-13 thru 340-16.1
<input type="checkbox"/>	340-32.1 thru 340-39	340-33 thru 340-40.3
<input type="checkbox"/>	340-61 thru 340-66.3	340-61 thru 340-66.3
<input type="checkbox"/>	340-84.9 thru 340-84.15	340-84.9 thru 340-84.19

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<input type="checkbox"/>	341-15	341-15 thru 341-16.1
<input type="checkbox"/>	341-27 thru 341-28.1	341-27 thru 341-28.1
<input type="checkbox"/>	341-85 thru 341-93	341-85 thru 341-89
<input type="checkbox"/>	343-24.1	343-24.1 thru 343-24.3
<input type="checkbox"/>	344-51 thru 344-52.1	344-51 thru 344-52.1
<input type="checkbox"/>	345-29 thru 345-30.1	345-29 thru 345-30.1

VOLUME 22

Revision

<input type="checkbox"/>	Title page.	Title page
<input type="checkbox"/>	360-3.	360-3
<input type="checkbox"/>	360-33 thru 360-55	360-33 thru 360-55
<input type="checkbox"/>	360-78.1 thru 360-89	360-79 thru 360-89
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<input type="checkbox"/>	363-5.	363-5 thru 363-6.1
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<input type="checkbox"/>	371-49	371-49 thru 371-50.1
<input type="checkbox"/>	371-65 thru 371-69	371-65
<input type="checkbox"/>	371-83 thru 371-91	371-83 thru 371-92.1
<input type="checkbox"/>	371A-9 thru 371A-16.1	371A-9 thru 371A-16.1
<input type="checkbox"/>	371A-26.1 thru 371A-51.	371A-27 thru 371A-52.3

VOLUME 23

Revision

<input type="checkbox"/>	Title page.	Title page
<input type="checkbox"/>	372-23	372-23
<input type="checkbox"/>	372-61 thru 372-69	372-61 thru 372-69
<input type="checkbox"/>	372-81 thru 372-87	372-81 thru 372-87
<input type="checkbox"/>	372-113 thru 372-117	372-113 thru 372-117
<input type="checkbox"/>	372-137	372-137

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<input type="checkbox"/>	373-59 thru 373-63	373-59 thru 373-63
<input type="checkbox"/>	373-79	373-79 thru 373-80.1
<input type="checkbox"/>	373-121 thru 373-129	373-121 thru 373-125
<input type="checkbox"/>	374-22.1 thru 374-23	374-23 thru 374-24.1
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<input type="checkbox"/>	380-15 thru 380-35	380-15 thru 380-36.7
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<input type="checkbox"/>	381-61 thru 381-81	381-61 thru 381-82.1
<input type="checkbox"/>	381-109 thru 381-111	381-109 thru 381-112.3
<input type="checkbox"/>	381-141 thru 381-144.1	381-141 thru 381-144.1

VOLUME 24

Revision

<input type="checkbox"/>	Title page.	Title page
<input type="checkbox"/>	390-3 thru 390-10.3	390-3 thru 390-10.1
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<input type="checkbox"/>	392-89 thru 392-93	392-89
<input type="checkbox"/>	392-100.1 thru 392-130.3	392-101 thru 392-130.9
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<input type="checkbox"/>	393-9 thru 393-21	393-9 thru 393-21
<input type="checkbox"/>	393-39 thru 393-47	393-39 thru 393-47
<input type="checkbox"/>	393-77 thru 393-81	393-77 thru 393-79
<input type="checkbox"/>	394-7 thru 394-16.1	394-7 thru 394-16.1
<input type="checkbox"/>	394-39 thru 394-41	394-39 thru 394-42.1
<input type="checkbox"/>	394-57 thru 394-63	394-57 thru 394-63
<input type="checkbox"/>	394-71	394-71
<input type="checkbox"/>	400-1 thru 400-3	400-1 thru 400-3
<input type="checkbox"/>	400-11 thru 400-16.3	400-11 thru 400-16.5
<input type="checkbox"/>	400-43 thru 400-89	400-43 thru 400-81
<input type="checkbox"/>	400-115 thru 400-133	400-115 thru 400-131
<input type="checkbox"/>	401-5.	401-5
<input type="checkbox"/>	401-17 thru 401-39	401-17 thru 401-31
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<input type="checkbox"/>	415-5 thru 415-11	415-5 thru 415-12.1
<input type="checkbox"/>	415-23 thru 415-40.5	415-23 thru 415-40.7

Check As Done	<i>Remove Old Pages Numbered</i>	<i>Insert New Pages Numbered</i>
<input type="checkbox"/>	415-55 thru 415-93	415-55 thru 415-85

VOLUME 25

Revision

<input type="checkbox"/>	Title page.	Title page
<input type="checkbox"/>	421-11	421-11 thru 421-12.1
<input type="checkbox"/>	421-29 thru 421-33	421-29 thru 421-33
<input type="checkbox"/>	423-21	423-21 thru 423-22.1

VOLUME 26

Revision

<input type="checkbox"/>	Title page.	Title page
<input type="checkbox"/>	I-177 thru I-237.	I-177 thru I-238.1
<input type="checkbox"/>	I-373 thru I-431.	I-373 thru I-431
<input type="checkbox"/>	I-591 thru I-683.	I-591 thru I-684.1
<input type="checkbox"/>	I-731 thru I-741.	I-731 thru I-741
<input type="checkbox"/>	I-763 thru I-829.	I-763 thru I-830.1
<input type="checkbox"/>	I-857 thru I-901.	I-857 thru I-901
<input type="checkbox"/>	I-941 thru I-955.	I-941 thru I-956.1
<input type="checkbox"/>	I-989 thru I-1019	I-989 thru I-1019

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