

PUBLICATION UPDATE

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Dorsaneo, Texas Litigation Guide

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HIGHLIGHTS

- **Justice Court Chapters Revised.** Ch. 46, *Justice Court Proceedings*, has been completely revised, and Ch. 282, *Landlord and Tenant*, has been extensively updated, to reflect new Texas Rules of Civil Procedure governing justice court proceedings, effective August 31, 2013.
- **Expedited Actions Rules Incorporated.** Chapters throughout the set have been extensively updated to reflect new “expedited actions” procedures, which apply to most civil cases filed on or after March 1, 2013 in which all claimants other than counter-claimants seek only monetary relief aggregating \$100,000 or less.
- **2013 Legislation and Recent Case Law Added.** This release also updates *Texas Litigation Guide* with 2013 legislation, recent Texas Supreme Court and court of appeals cases, federal cases, and other significant developments occurring since Releases 109 and 110. Some of the significant developments incorporated in

this release are summarized below.

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Pretrial, Trial, and Appellate Practice

New Rules for Justice Court Proceedings Adopted; Small Claims Courts Abolished. Ch. 46, *Justice Court Proceedings*, has been completely revised and reorganized to reflect the Texas Supreme Court’s adoption of new Rules of Civil Procedure 500 to 510, effective August 31, 2013, governing proceedings in the justice courts, including small claims and debt claim cases [see Misc. Docket No. 13-9049 (April 15, 2013)]. These rules supersede former Rules of Civil Procedure 523-591 and 737-755, which were repealed effective

August 31, 2013. The Court adopted these rules in response to 2011 or 2013 legislation that abolished the former small claims courts and transferred jurisdiction over small claims cases to the justice courts, effective August 31, 2013. The rules also include new provisions governing eviction cases and “repair and remedy” cases, which have been incorporated in revisions to Ch. 282, *Landlord and Tenant*, also included in this release.

New “Expedited Actions” Rules Adopted. Chapters throughout *Texas Litigation Guide* have been revised to reflect new rules adopted by the Texas Supreme Court providing for expedited and simplified procedures for certain civil actions in which the amount in controversy does not exceed \$100,000 [*see* Misc. Doc. No. 13-9022 (Feb. 12, 2013)]. These rules became effective on March 1, 2013 and apply to actions filed on or after March 1, 2013 (except for actions filed in justice courts). The new “expedited actions” process applies to any suit in which all claimants, other than counter-claimants, affirmatively plead that they seek only monetary relief aggregating \$100,000 or less, including damages of any kind, penalties, costs, pre-judgment interest, and attorney fees [Tex. R. Civ. P. 169(a)(1)]. The expedited actions process does not apply to actions alleging a claim governed by the Family Code, Property Code, Tax Code, or Chapter 74 of the Civil Practice and Remedies Code (governing health care liability claims) [Tex. R. Civ. P. 169(a)(2)]. The rules provide a procedure for removing an action from the expedited actions process [*see* Tex. R. Civ. P. 169(c)]. These rules are now covered in the appropriate chapters in this publication and impact several aspects of civil litigation practice, including the following:

- **Pleadings:** Tex. R. Civ. P. 47 is amended to provide that any origi-

nal pleading setting forth a claim for relief (including an original petition, counterclaim, cross-claim, or third-party claim), except in suits governed by the Family Code, must contain a statement that the monetary relief comes within one of five specified dollar amount ranges [see Tex. R. Civ. P. 47(c)]. A party that fails to include this statement may not conduct discovery until the party’s pleading is amended to comply [Tex. R. Civ. P. 47]. This rule applies to all pleadings containing a claim for relief (regardless of the amount sought) and is intended to identify proceedings that are subject to the new expedited process set out in new Civil Procedure Rule 169. The Civil Case Information Sheet required by Civil Procedure Rule 78a has also been revised to reflect this requirement.

- **Discovery:** Discovery in any action under the expedited actions process is governed by the “Level 1” discovery procedure set forth in Civil Procedure Rule 190.2 [Tex. R. Civ. P. 169(d)(1)]. The Level 1 procedures now apply to specifically to expedited actions governed by Civil Procedure 169 [Tex. R. Civ. P. 190.2(a)(1)], so that in effect the maximum recovery in a Level 1 case (other than certain divorce cases) has increased from \$50,000 to \$100,000. In addition, among other changes, the end of the discovery period under Level 1 has been changed from 30 days before the date set for trial to 180 days after the date that the first request for discovery of any kind was

served on a party [*see* Tex. R. Civ. P. 190.2(b)(1)], and new limits on the number of requests for production and requests for admission have been added to the existing limit on the total length of oral depositions and to the limit on the total number of interrogatories that may be served (which has been reduced from 25 to 15) [*see* Tex. R. Civ. P. 190.2(b)(4),(5)]. In addition, a party in a Level 1 case may now request disclosure (as distinguished from production) of all documents, electronic information, and tangible items that the disclosing party has in its possession, custody, or control that it may use to support its claims or defenses [*see* Tex. R. Civ. P. 190.2(b)(6)]. The rule permitting modification of discovery plans to allow additional discovery has been amended so that it does not apply to expedited actions [*see* Tex. R. Civ. P. 190.5].

- ***Trial Setting and Continuances:*** On request of a party, the court must set an expedited action for a trial date that is within 90 days after the end of the discovery period, and may continue the case twice, for a period not to exceed a total of 60 days [Tex. R. Civ. P. 169(d)(2)].
- ***Time Limits for Trial:*** The rules contain specific time limits for the completion of trial in an expedited action [*see* Tex. R. Civ. P. 169(d)(3)].
- ***Alternative Dispute Resolution:*** The rules contain specific guidelines and limits regarding the referral of expedited actions to alternative dispute resolution [*see* Tex.

R. Civ. P. 169(d)(4)].

- ***Challenges to Expert Testimony:*** The rules limit the procedures for challenging the admissibility of expert testimony in expedited actions [*see* Tex. R. Civ. P. 169(d)(5)].
- ***Limit on Amount of Recovery:*** No party who prosecutes a suit under the expedited actions procedure of Rule 169 may recover a judgment in excess of \$100,000, excluding post-judgment interest [Tex. R. Civ. P. 169(b)].
- ***Proof of Medical Expenses:*** The new rules also contain a new procedure for proving medical expenses by an affidavit that substantially complies with a specified form [*see* Tex. R. Evid. 902(10)(c)]. The use of this procedure is not limited to expedited actions under Rule 169.

Determining Citizen Standing. This release includes discussion of *Fin. Comm'n of Tex. v. Norwood*, 2013 Tex. LEXIS 491, **35–36 (Tex. 2013), in which the Texas Supreme Court held that the proper inquiry in determining whether a plaintiff lacks standing to sue the government is whether the plaintiff is suing solely as a citizen who insists that the government follow the law. *See* Ch. 12, *Pleading the Parties*, § 12.01.

Sanctions Chapter Updated. Ch. 14, *Sanctions for Improper Pleading*, has been revised to reflect *Citibank N.A. v. Estes*, 385 S.W.3d 671, 676 (Tex. App.—Houston [14th Dist.] 2012, no pet.), in which the court of appeal held that a trial court is required to explain that it considered lesser sanctions before imposing death penalty sanctions dismissing a case. *See* § 14.03[9]. In addition, the chapter has been updated to reflect new Civil Procedure Rule 91a, under

which a court may dismiss a cause of action on the grounds that it has no basis in law or fact. *See* § 14.04.

Recent Cases on Personal Jurisdiction Based on Internet Activity. Ch. 32, *Personal Jurisdiction and Service on Nonresidents*, has been revised to reflect recent case law discussing the effect of internet activity on the ability of Texas courts to exercise personal jurisdiction over nonresident defendants. Cases covered include:

- *Wilkerson v. RSL Funding, L.L.C.*, 388 S.W.3d 668, 675–677 (Tex. App.—Houston [1st Dist.] 2011, pet. denied), in which the court of appeals held that the usual “sliding-scale” jurisdictional analysis that courts apply to claims based on internet usage generally looks at a defendant’s ownership and operation of its own website, not the defendant’s use of third-party websites, such as Yelp or Yahoo. Mere usage of such sites to post comments relating to a Texas resident or business is generally insufficient to permit a Texas court to exercise jurisdiction over a nonresident defendant. *See* § 32.03.
- *Keenan v. Aguilar*, 391 S.W.3d 620, 625–626 (Tex. App.—El Paso 2012, no pet.), in which the court of appeals held that the sale of a motor home on eBay to a Texas resident constituted doing business in Texas for jurisdictional purposes. *See* § 32.04[2][b][iv].

Recent Cases Analyze Arbitration Issues. Ch. 44, *Arbitration*, has been updated to reflect recent Texas case law including:

- *Rachal v. Reitz*, 56 Tex. Sup. Ct. J. 530, 2013 Tex. LEXIS 348, *17

(Tex. 2013), in which the Texas Supreme Court held that under the doctrine of “direct benefits” estoppel, a trust beneficiary who attempts to enforce rights that would not exist without the trust manifests his or her assent to the trust’s arbitration clause. *See* § 44.02[1][c].

- *Venture Cotton Coop. v. Freeman*, 395 S.W.3d 272, 274–277 (Tex. App.—Eastland 2013, pet. filed), in which the court of appeals held that an arbitration agreement that prevented parties from recovering statutory remedies was unconscionable and unenforceable. *See* § 44.02[2].
- *Jones v. Brelsford*, 390 S.W.3d 486, 492–494 (Tex. App.—Houston [1st Dist.] 2012, no pet.), in which the court of appeals vacated an entire arbitration award when the invalid portion was not distinct and independent from the valid portions. *See* § 44.06[2][c][ii].

Exhaustion of Administrative Remedies Not Required When Agency’s Jurisdiction is Not Exclusive. This release includes discussion of *Harris County Fresh Water Supply Dist. No. 61 v. FWO Development LTD*, 396 S.W.3d 639, 644–647 (Tex. App.—Houston [14th Dist.] 2013, pet. filed), in which the court of appeal held that exhaustion of administrative remedies is not a prerequisite to filing suit for review of an agency rulemaking decision if the agency does not have exclusive jurisdiction over the matter. *See* Ch. 421, *Administrative Rules*, § 423.02[3][a].

Discovery Privilege for Trade Secrets. The discussion of the trade secrets privilege in Ch. 90, *Discovery: Scope and Limita-*

tions, has been revised to include the definition of trade secrets set out in Tex. Civ. Prac. & Rem. Code § 134A.002, part of the newly adopted Texas Uniform Trade Secrets Act (see § 90.06[2][g]). See further discussion below under Business and Commercial Litigation.

Effect of Dismissal Motion on Special Appearance and Motion to Transfer Venue. Ch. 60, *Special Appearance*, Ch. 61, *Venue*, and Ch. 70, *Answer*, have been updated to include new Civil Procedure Rule 91a.8, which provides that a party who files a motion to dismiss a baseless action does not waive a special appearance or motion to transfer venue (see §§ 60.01[2], 60.04[1], 61.20[3][a], 61.20[5], 70.18[2]).

Vexatious Litigant Statute Amended. 2013 amendments to the vexatious litigant statute (Ch. 11 of the Texas Civil Practice & Remedies Code) have been incorporated into the discussion in Ch. 70, *Answer* (see § 70.07).

Raising Constitutional Challenge in Answer. Ch. 70, *Answer* has also been revised to reflect a 2013 amendment to Texas Government Code Section 402.010, requiring a party to file a specified form advising the court when the party raises a challenge to the constitutionality of a Texas Statute (see § 70.08).

Multidistrict Litigation. In Ch. 64, *Multidistrict Litigation*, the discussion of the treatment of asbestos- and silica-related cases has been updated in light of 2013 legislation that requires pretrial courts to dismiss long-pending litigation unless a specified report is served (see § 64.01[4]).

Interlocutory Appeals of Order Denying Dismissal. The discussion in Ch. 153, *Accelerated Appeals*, has been revised to incorporate an amendment to Texas Civil Practice & Remedies Code Section 51.014,

which allows an interlocutory appeal of an order under Texas Civil Practice and Remedies Code Section 27.003 denying a motion to dismiss an action related to a party's exercise of the right of free speech, right to petition, or right of association (see §§ 153.02[1][a], 153.05[2]). Related coverage in Ch. 333, *Libel and Slander*, has also been revised (see § 333.42[3]).

Texas Supreme Court Jurisdiction Over Interlocutory Appeal. This release includes a discussion of *CHCA Woman's Hosp., L.P. v. Lidji*, 56 Tex. Sup. Ct. J. 735, 2013 Tex. LEXIS 493, **5–6 (Tex. 2013), in which the Texas Supreme Court held that it has jurisdiction over a petition for review on interlocutory appeal in a case in which the court of appeals holds differently from a prior decision of another court of appeals on a question of law material to a decision of the case. See Ch. 2, *Jurisdiction of Texas Courts*, § 2.01[1][b][i].

Personal Injury and Tort Litigation

Defamation Mitigation Act. Ch. 333, *Libel and Slander*, has been revised to reflect enactment of the Defamation Mitigation Act [Tex. Civ. Prac. & Rem. Code § 73.051 et seq.], which generally requires a claimant to request a correction, clarification, or retraction as a condition of maintaining any action for defamation arising out of any publication or broadcast (which is broadly defined by the Act). The Act applies to information published on or after June 14, 2013, and any defamatory information published before that date is governed by prior law [see Acts 2013, 83d Leg., R.S., ch. 950, §§ 3, 4 (effective date)]. If the Act applies and the claimant fails to make the required request, the defendant has a statutory right to abatement. The Act also limits the availability of exemplary damages and other remedies to a defamation claimant. See §§ 333.21[5], 333.112.

Recent Texas Case Law Addresses Other Defamation Issues. Ch. 333, *Libel and Slander*, has also been revised to include recent cases from the Texas Supreme Court and courts of appeals, including the following:

- *Neely v. Wilson*, 56 Tex. Sup. Ct. J. 766 (Tex. 2013), in which the Supreme Court held: (1) any business entity endowed by the Business Organizations Code with the same powers and privileges as a corporation may sue for defamation in its own name (§ 333.10[2]); (2) a media defendant cannot transform an otherwise private party into a limited purpose public figure through the defamatory statements themselves (§ 333.10[3][c]); (3) the statutory privilege of Civil Practices and Remedies Code Section 73.002 as to reports of official proceedings was inapplicable to a broadcast when a fact issue was presented on whether the report was a “fair, true, and impartial account” of the proceeding (§ 333.11[4][a]); and (4) the Court’s prior decision in *McIlvain v. Jacobs*, 794 S.W.2d 14 (Tex. 1990), does not establish that media reporting of third-party allegations under investigation is substantially true when the defendant accurately reports the allegations and the existence of any investigation; instead, the defendant must show that the third-party allegations are true, and the results of an investigation are simply one way to make that demonstration (§§ 333.04[5], 333.21[1]).
- *Hancock v. Variyam*, 56 Tex. Sup. Ct. J. 561 (Tex. 2013), in which the Supreme Court held: (1) whether statements are defamatory per se is a matter of law to be decided by the court (§ 333.02[1][b]); (2) although a false accusation of professional impropriety is defamation per se, the mere fact that a defamatory statement relates to a professional is not sufficient; instead, it must accuse the person of lacking a peculiar or unique skill that is necessary for the proper conduct of the profession (§ 333.03[2][c]); and (3) a jury may presume the existence of general damages in defamation per se cases only when the speech is not public or the plaintiff proves actual malice (§ 333.30[1]).
- *Avila v. Larrea*, 394 S.W.3d 646 (Tex. App.—Dallas 2012, pet. filed), in which the court of appeals held that the statutory command to “rule on” a motion under the Citizens Participation Act, Civil Practices and Remedies Code Chapter 27, requires the court to either grant or deny the motion, so that an order deferring any decision pending discovery is not permitted, and the motion is denied by operation of law when the statutory deadline passes (§ 333.42).
- *Davis v. Prosperity Bank*, 383 S.W.3d 795 (Tex. App.—Houston [14th Dist.] 2012, no pet.), in which the court of appeals held that to state a claim for defamation, the claimant must identify at least one allegedly defamatory statement made by the defendant, because mere actions cannot be defamatory (§ 333.02[1][a]).
- *Miranda v. Byles*, 390 S.W.3d 543

(Tex. App.—Houston [1st Dist.] 2012, pet. filed), in which the court of appeals held that the statutory immunity for a report of child abuse under Family Code Section 261.106 is an affirmative defense to liability for defamation that is waived when not raised by the defendant (§ 333.20[2][f]).

2013 Legislation Limits Liability for Negligent Hiring or Supervision. Ch. 290, *Negligence*, has been revised to reflect enactment of Chapter 142 of the Civil Practices and Remedies Code, which partially limits the liability of those who employ persons with criminal convictions. The statute applies to causes of action accruing on or after June 14, 2013 [see Acts 2013, 83d Leg., R.S., ch. 287, §§ 2, 3]. When applicable, a cause of action may not be brought against an employer, general contractor, premises owner, or other third party for negligently hiring or failing to adequately supervise an employee, based on evidence that the employee has been convicted of certain offenses (§ 290.32[1][b][ii]).

Legislature Amends Deadline for Service of Expert Reports in Health Care Liability Actions. Ch. 321, *Medical Malpractice*, has been revised to reflect the 2013 amendment of Civil Practices & Remedies Code Section 74.351(a), which now requires service of expert reports within 120 days after “the date each defendant’s original answer is filed,” rather than the date the claimant’s petition was filed, as under prior law. This amendment should eliminate the interpretive difficulties produced by the former law when service of citation was delayed or obtained outside of the 120-day period. Under the amended statute, the claimant’s obligation to serve expert reports is not triggered at all until the defendant is both served and files an an-

swer. This change in law, however, applies only to claims filed on or after September 1, 2013 [see Acts 2013, 83d Leg., R.S., ch. 870, §§ 3(b), 4 (effective date)], and the prior version of the statute governs claims filed before that date (§ 321.15[1][a][ii]).

Recent Case Law Addresses Medical Malpractice Issues. Ch. 321, *Medical Malpractice*, has also been revised to reflect numerous cases from the Texas Supreme Court and courts of appeals addressing a variety of issues relating to health care liability claims, including the following:

- *Certified EMS, Inc. v. Potts*, 392 S.W.3d 625 (Tex. 2013), and *TTHR Ltd. P’ship v. Moreno*, 56 Tex. Sup. Ct. J. 467 (Tex. 2013), each of which held that when an expert report supporting a health care liability claim (HCLC) is adequate as to any one liability theory, the plaintiff is entitled to proceed with the entire claim against that defendant, including all liability theories. Any alleged inadequacy of other liability theories is therefore not to be addressed by partial dismissals based on the expert report; instead, that is addressed in subsequent proceedings after the claimant has crossed the expert report threshold (§ 321.15[1][c][iii]).
- *CHCA Woman’s Hosp., L.P. v. Lidji*, 56 Tex. Sup. Ct. J. 735 (Tex. 2013), which held that when a claimant nonsuits while the 120-day period for serving expert reports is running, the nonsuit suspends the running of the period, which begins to run again on the date the action is re-filed. The expert reports are therefore timely if served within the number of

days remaining in the time period on the date of the nonsuit (§ 321.15[1][a][iv]).

- *PM Management-Trinity NC, LLC v. Kumets*, 56 Tex. Sup. Ct. J. 816 (2013) (per curiam), which applied the rule of *Yamada v. Friend*, 335 S.W.3d 192 (Tex. 2010), and held that claim-splitting into HCLCs and other claims or liability theories is not permitted when the same set of operative facts is involved (§ 321.02[2][d]).
- *Marino v. Wilkins*, 393 S.W.3d 318 (Tex. App.—Houston [1st Dist.] 2012, pet. denied), which held that when a defendant objects to an expert report in support of an HCLC, but confines the objections to particular liability theories asserted, the failure to object to all liability theories makes the report adequate and permits the entire claim to go forward (§ 321.15[1][c][iii]).
- *Rivera v. Compton*, 392 S.W.3d 326 (Tex. App.—El Paso 2012, pet. filed), which held that the statute of repose applicable to an HCLC [Tex. Civ. Prac. & Rem. Code § 74.251(b)] violates the Open Courts provision when applied to a claimant who was younger than eight at the time of the treatment or procedure involved, because such a person cannot reach the age of majority and exercise the legal right to bring the claim within the 10-year repose period (§ 321.12[4]).
- *CHCA Bayshore, L.P. v. Ramos*, 388 S.W.3d 741 (Tex. App.—Houston [1st Dist.] 2012, no pet.), which held that because the proper

identification, handling, and disposal of medical specimens is required for a hospital to maintain its license, an allegation of such mishandling related to professional or administrative services and was therefore an HCLC, even though the alleged mishandling occurred after all treatment had concluded and the patient was discharged (§ 321.02[7]).

- *Hendrick Med. Ctr. v. Texas Podiatric Med. Ass'n*, 392 S.W.3d 294 (Tex. App.—Eastland 2012, no pet.), which held that a claim by podiatrists that a hospital improperly restricted their practice was a dispute over the scope of the practice of podiatry that was unrelated to any health care provided to patients, so the claim was not an HCLC (§§ 321.02[7], 321.11[1][a]).

Recent Case Law on Governmental Immunity and Tort Claims. Ch. 293, *Claims Against Governmental Entities*, has been revised to include recent cases from the Texas Supreme Court and courts of appeals, including:

- *City of Bellaire v. Johnson*, 56 Tex. Sup. Ct. J. 633 (2013) (per curiam), which held that when both a city and its employee were named as defendants, the trial court properly dismissed all claims against the employee under the election of remedies provision of the Tort Claims Act (§ 293.16[3][a][ii]).
- *Williams v. Nealon*, 394 S.W.3d 9 (Tex. App.—Houston [1st Dist.] 2012, pet. denied), which held that the required substitution of the unit under the election of remedies provision is not an open courts

violation even if the effect of the substitution is to extinguish the claimant's common law remedy against the employee (§ 293.16[3][a][iv]).

- *City of Watauga v. Gordon*, 389 S.W.3d 604 (Tex. App.—Fort Worth 2012, pet. filed), which held that a Tort Claims Act case alleging injury from being improperly handcuffed by city police was not barred by the intentional tort exception because the plaintiff consented to both the arrest and the handcuffing, and there can be no intentional tort claim if the plaintiff consents to the defendant's conduct (§ 293.12[11]).
- *Hudson v. City of Houston*, 392 S.W.3d 714 (Tex. App.—Houston [1st Dist.] 2011, pet. denied), which held that although a city's hiring of sanitation workers is a governmental function, providing insurance or indemnity benefits to those workers is a proprietary function, so a municipality is subject to suit to recover those benefits (§ 293.01[3][b]).

Texas Supreme Court Reaffirms Limits on Damages for Loss of Pet Dog. Ch. 20, *Damages in Tort*, has been revised to reflect *Strickland v. Medlen*, 397 S.W.3d 184 (Tex. 2013), in which the Texas Supreme Court reaffirmed its prior decision in *Heiligmann v. Rose*, 81 Tex. 222, 16 S.W. 931, 932 (1891) that the only damages that can be recovered for the negligent loss of a dog are (1) market value, if any, or (2) any special or pecuniary value to the owner based on economic value derived from the dog's usefulness and services. Noneconomic damages such as those for emotional injury or loss of companionship are not available (§ 20.03[4]).

Insurance and Workers' Compensation Litigation

2013 Legislation Clarifies Scope of Insurer's Contractual Subrogation Rights.

Ch. 344, *Life, Health and Accident Insurance*, has been revised to reflect enactment of Chapter 140 of the Civil Practices and Remedies Code to more clearly define and limit the extent of an insurer's contractual subrogation rights to a recovery obtained by its insured against a third party tortfeasor. The Act applies to a contractual right of subrogation concerning a cause of action that accrues on or after January 1, 2014 [*see* Acts 2013, 83rd Leg., R.S., ch. 180, §§ 4, 5 (effective date)]. The date that the injured party's claim accrues therefore controls the applicability of Chapter 140. The statute expressly authorizes a contractual right of subrogation, and continues the common law rule that such a right prevails over the "made whole" doctrine and other equitable considerations. In general, however, a contractual subrogation recovery is limited to the lesser of (1) one-half of the gross recovery, or (2) the amount paid to the insured. The insurer must also contribute to any attorney's fees incurred by its insured in obtaining the recovery (§ 344.09).

Recent Case Law on Health Insurance Issues. Ch. 344, *Life, Health and Accident Insurance*, has also been revised to include recent cases from the Texas Supreme Court and courts of appeals, including:

- *Christus Health Gulf Coast v. Aetna, Inc.*, 397 S.W.3d 651 (Tex. 2013), which held that privity of contract is a necessary element of a prompt payment claim against an HMO under the Insurance Code (§ 344.05[2]).
- *Allstate Ins. Co. v. Spellings*, 388 S.W.3d 729 (Tex. App.—Houston [1st Dist.] 2012, pet. filed), which

held that equitable subrogation is limited to standing in the shoes of the insured, and an insurer who pays money to a party injured by its insured may not claim to be equitably subrogated to the rights of the recipient of those payments (§ 344.09).

Recent Developments in Workers' Compensation Law. Ch. 340, *Workers' Compensation* has been revised to include recent legislation and cases from the Texas Supreme Court and courts of appeals, including:

- 2013 legislation renaming the former Staff Services Leasing Act as the Professional Employer Services Act, as well as revising and expanding the Act's definitions and scope (§ 340.02[2]).
- *City of Bellaire v. Johnson*, 56 Tex. Sup. Ct. J. 633 (2013) (per curiam), in which the Supreme Court held that when both employment status and worker's compensation coverage are established, a claimant may not avoid the exclusive remedy provision by arguing exclusion under the particular terms of the employer's policy; instead, the employee is covered as a matter of law, and any dispute as to the scope of coverage under the policy must be resolved between the carrier and the employer (§ 340.01[2]).
- *El Paso County Juvenile Bd. v. Aguilar*, 387 S.W.3d 795 (Tex. App.—El Paso 2012, no pet.), which held that a county juvenile board is a "political subdivision" for purposes of Labor Code Chapter 504, so the board has governmental immunity from a retaliatory discharge suit under *Travis*

Cent. Appraisal Dist. v. Norman, 342 S.W.3d 54 (Tex. 2011) (§ 340.42).

Business and Commercial Litigation

Texas Uniform Trade Secrets Act Enacted. Ch. 200B, *Trade Secrets*, has been extensively revised to reflect the Texas Legislature's 2013 enactment of the Texas Uniform Trade Secrets Act [Tex. Civ. Prac. & Rem. Code § 134A.001 et seq.], which applies to any misappropriation of a trade secret made on or after September 1, 2013. The Act generally displaces conflicting tort, restitutionary, and other Texas law that provides civil remedies for misappropriation of a trade secret, with certain specified exceptions. The Act contains statutory definitions for "trade secret," "misappropriation," and acquisition of a trade secret by "improper" and "proper" means. It provides that on application to the court, an injunction must be terminated when the trade secret has ceased to exist, but may be continued for an additional reasonable period of time in order to eliminate the commercial advantage that otherwise would be derived from the misappropriation. In exceptional circumstances, an injunction may condition future use on payment of a reasonable royalty for no longer than the period of time for which use could have been prohibited. If willful and malicious misappropriation is proven by clear and convincing evidence, exemplary damages may be awarded in an amount not exceeding twice the award of actual damages. A court may award reasonable attorney's fees to the prevailing party when a claim of misappropriation is made in bad faith, a motion to terminate an injunction is made or resisted in bad faith, or a willful and malicious misappropriation exists. See §§ 200B.01, 200B.20[1], [2][b][i], 200B.23[1], [2][a], [d], [e], [3][a], [c], [d], [4], 200B.25[1].

Social Purposes for Corporation. Tex. Bus. Orgs. Code § 3.007(d) was amended in 2013 and now allows a for-profit corporation to include one or more social purposes in addition to the other purpose or purposes required to be stated in the corporation's certificate of formation, which may also include a provision that the corporation's board of directors and officers must consider any social purpose specified in the certificate in discharging their duties. *See* Ch. 160, *Texas Business Organizations Code*, § 160.21[3][a].

Class Action for Securities Fraud. The U.S. Supreme Court held in *Amgen v. Connecticut Retirement Plans & Trust*, ___ U.S. ___, 133 S. Ct. 1184, 1191, 1193-1194 185 L. Ed. 2d 308 (2013), that proof of the materiality of the defendant's alleged misrepresentations is not a prerequisite to class certification in a securities fraud action based on a fraud-on-the-market theory. The fraud-on-the-market theory facilitates class certification by recognizing a rebuttable presumption of classwide reliance on public, material misrepresentations when shares are traded in an efficient market. A class representative is not required to prove the materiality of the defendant's alleged misrepresentations and omissions at the class certification stage in a securities fraud class action based on a fraud-on-the-market theory. *See* Ch. 171, *Securities Fraud*, § 171.06[4][a][v].

Laches Defense in Trademark Infringement Case. Ch. 200, *Trademarks*, was updated to reflect recent case law concerning the laches defense in trademark infringement litigation.

- In *Condom Sense, Inc. v. Alshalabi*, 390 S.W.3d 734, 759-761 (Tex. App.—Dallas 2012, no pet. h.), the Dallas court of appeals held that the fact that the plaintiff in a trademark in-

fringement case sent the defendant a cease and desist letter does not, as a matter of law, void a laches defense. For example, a plaintiff's cease and desist letter to the defendant did not void the defendant's laches defense to the plaintiff's later action to prevent use of the mark, when the letter made untrue representations about the extent of the plaintiff's ownership rights in the mark. A plaintiff's purported intentional strategy of inaction in enforcing its rights in the mark also does not void a laches defense. *See* § 200.75[2][a].

- In *Abraham v. Alpha Chi Omega*, 708 F.3d 614, 625-626 (5th Cir. [Tex.] 2013), the Fifth Circuit held in that a finding of laches alone generally will not bar injunctive relief in a trademark infringement action, although it typically will foreclose a demand for an accounting or damages. A finding of laches or acquiescence may bar injunctive relief if the trademark owner conducted itself in a way that induced the infringer's reliance or if an injunction would result in substantial prejudice to the infringer. *See* § 200.75[2][d].

Fees and Costs in FDCPA cases. The U.S. Supreme Court held in *Marx v. General Revenue Corp.*, ___ U.S. ___, 133 S. Ct. 1166, 1174-1175, 185 L. Ed. 2d 242 (2013), that a court may award costs to prevailing defendants in cases under the federal Fair Debt Collection Practices Act without finding that the plaintiff brought the case in bad faith and for the purpose of harassment. *See* Ch. 242, *Unfair Collection Practices*, § 242.04[5][d].

Employment Litigation

“Lifetime” Employment Agreement Required to Be in Writing Under Statute of Frauds. In *Kalmus v. Oliver*, 390 S.W.3d 586, 590-592 (Tex. App.—Dallas 2012, no pet. h.), the Dallas court of appeals held that promises of lifetime employment or employment until retirement age are usually the types of employment contracts that must be reduced to writing to be enforceable. This is because the contract’s duration is for the employee’s working life, not until the employee’s death, and the completion date may be ascertained by determining the employee’s anticipated retirement date. See Ch. 203, *Employer-Employee Relations*, § 203.11[3].

Collective Action Under Fair Labor Standards Act. The U.S. Supreme Court held in *Genesis Healthcare Corp. v. Symczyk*, ___ U.S. ___, 133 S. Ct. 1523, 1529, 185 L. Ed. 2d 636 (2013), that a collective action brought by a single employee on his or her own behalf and of all similarly situated employees for the employer’s alleged violation of the FLSA is no longer justiciable when the plaintiff-employee’s individual claim becomes moot as a result of an offer of judgment by the employer in an amount that is sufficient to make the plaintiff whole. See Ch. 203, *Employer-Employee Relations*, § 203.22[1][g][ii].

Real Estate Litigation

New Rules for Eviction and Repair and Remedy Cases in Justice Courts. As noted above under Pretrial, Trial, and Appellate Procedure, Ch. 282, *Landlord and Tenant*, has been revised to reflect the Texas Supreme Court’s adoption of new procedural rules, effective August 31, 2013, governing proceedings in justice courts. These include specific rules (Tex. R. Civ. P. 509, 510) governing eviction actions and “repair and remedy” actions be-

tween a landlord and tenant (§§ 282.21[2][c], 282.41, 282.121, 282.139).

2013 Legislation Affecting Landlord-Tenant Relationship. Ch. 282, *Landlord and Tenant*, has also been revised to reflect enactment of new statutes requiring a residential landlord to provide a copy of the lease to each cotenant, and limiting the lease term when a landlord provides alternate premises to a tenant after a natural disaster destroys the leased premises (§ 282.26[10], [11]). In addition, the chapter now reflects the 2013 amendment of Property Code 92.331 to preclude retaliation by a landlord against a tenant who establishes, attempts to establish, or participates in a tenant organization (§ 282.25).

Recent Developments Concerning Mortgages and Other Real Property Security Interests. Ch. 255, *Real Property Security Interests*, has been revised to include recent legislation and cases from the Texas Supreme Court and courts of appeals, including:

- 2013 amendments to Chapter 51 of the Property Code governing proper notice and conduct of a sale of property under a deed of trust or other contractual agreement containing a power of sale, including provisions that require a county to post notices on the Internet, and preclude a challenge to a sale based on the designation of the place of sale by a commissioners court (§ 255.03[4]).
- *Finance Comm’n of Tex. v. Norwood*, 56 Tex. Sup. Ct. J. 696 (Tex. 2013), which concerned the administrative interpretations of the constitutional home equity lending provisions, and held that: (1) agency interpretations are not

definitive, but are instead subject to de novo judicial review (§ 255.06[5][a][iv], [9]); (2) regulations permitting mailing of the required signed consent and closing through an attorney-in-fact were invalid, because they permitted the necessary document to be coerced from the borrower at the borrower's home and were therefore inconsistent with the constitutional requirement that closing occur only at specified sites (§ 255.06[5][a][i]); (3) a regulation that interpreted the term "interest" by referring to the statutory definition in the Finance Code was invalid because it effectively permitted the legislature to amend the constitutional home equity lending provisions by amending the statute; instead, *interest* means the amount determined by multiplying the loan principal by the interest rate (§ 255.06[5][a][i]); and (4) a regulation establishing a rebuttable presumption that the lender's notice is received three days after it is mailed is valid because it merely relieves the lender of proving receipt until challenged by the borrower (§ 255.06[5][b]).

- *I-10 Colony, Inc. v. Chao Kuan Lee*, 393 S.W.3d 467 (Tex. App.—Houston [14th Dist.] 2012, pet. denied), which held that when two liens created by contract are expressly made to be "of equal dignity," foreclosure of one lien does not extinguish the other unless the lienholder subordinates the lien by conduct or agreement (§ 255.02[6]).
- *Mathis v. DCR Mortg. III Sub I, L.L.C.*, 389 S.W.3d 494 (Tex.

App.—El Paso 2012, no pet.), which held that when a promissory note contains clear and unequivocal waiver of both notice of intent to accelerate and notice of acceleration, but the accompanying deed of trust contains language conditioning acceleration on notice, the waiver in the note is ineffective, so the failure to provide notice made acceleration void as a matter of law (§ 255.03[2][c]).

2013 Legislation Affects Property Tax Litigation. Ch. 260, *Real Property Tax Suits*, has been revised to include recent legislation, including:

- Enactment of Tax Code Section 31.11(k) to expressly authorize a taxpayer to sue in district court to compel payment of a refund denied by a taxing unit, provided the suit is filed with 60 days after the refund application is denied, either expressly or by operation of law 90 days after the application was filed. Whether such a suit was available under prior law was uncertain (§ 260.04[1]).
- Amendments to Tax Code Section 32.06 to limit tax lien transfers, including making them unavailable as to property taxes on homestead property of a person over the age of 65 (§ 260.03[1][b]).
- Adoption of Tax Code Section 42.21(h), which provides that a court has jurisdiction over an appeal of a tax protest regardless of whether the petition correctly identifies the plaintiff or describes the property, provided that the property was the subject of an appraisal review board order, and the petition was both timely filed

and provides sufficient information to identify the property. This provision therefore focuses on whether the *property* at issue was the subject of the protest being appealed, not whether the *party* seeking judicial review was the one who filed the protest or owns the property, as was the case under former law (§ 260.04[3][b][i]).

- Amendments to Tax Code Section 42.29 to expand a prevailing taxpayer's opportunity to collect attorney's fees in successful judicial review actions challenging an order denying in whole or in part an exemption under Tax Code Sections 11.17, 11.22, 11.23, 11.231, or 11.24. Under prior law, exemption determinations were completely excluded, and attorney's fees were available only in actions relating to orders as to excessive or unequal appraisal of the property, or to correct the appraisal rolls (§ 260.04[3][b][ii]).

Recent Developments Regarding Deeds. Ch. 254, *Deeds and Conveyances*, has been revised to include recent legislation and cases from the Texas Supreme Court and courts of appeals, including (1) legislation providing that a correction deed or instrument replaces and is a substitute for the original instrument, and that a bona fide purchaser of property that is subject to a correction instrument may generally rely on it against any person making adverse or inconsistent claim (§ 254.02[4][b]); and (2) *Tex. DOT & Edinburg v. A.P.I. Pipe & Supply, LLC*, 397 S.W.3d 162 (Tex. 2013), which held that (a) a deed that is void because the grantor has no title cannot be basis of an innocent purchaser defense (§ 254.07[3]); and (b) a duly recorded instrument provides notice and precludes

bona fide purchaser status even if there is a subsequently recorded instrument that purports to void the earlier instrument (§ 254.07[5]).

Texas Supreme Court Analyzes “Accommodation” Doctrine in Mineral Rights Law. Ch. 283, *Oil and Gas Leases*, has been revised to include coverage of *Merriman v. XTO Energy, Inc.*, 56 Tex. Sup. Ct. J. 719 (Tex. 2013), which concerned the accommodation doctrine as to the effect of the mineral right lessee's activities on the use of the surface estate. In *Merriman*, the Texas Supreme Court held that (1) the surface owner has the burden to prove that the lessee's use completely precludes or substantially impairs the existing use, and there is no reasonable alternative method available to the surface owner by which the existing use can be continued; (2) if this initial burden is carried, the surface owner must also prove that there are alternative reasonable, customary, and industry-accepted methods available to the lessee that both permit recovery of the minerals and also allow the surface owner to continue the existing use; (3) in considering these issues, the inquiry focuses on the actual existing use, and the fact that the surface estate might reasonably be used for some different purpose is not controlling; and (4) although the feasibility of relocating the existing use to a different portion of the same tract may be considered, courts should not consider whether the surface owner could relocate the existing use to a different site entirely (§ 283.03[5][c]).

Legislature Limits Restrictive Covenants. Ch. 285, *Restrictions*, has been revised to include 2013 legislation limiting the terms and enforceability of certain restrictive covenants in planned communities that attempt to undermine conservation efforts or limit political or religious speech (§ 285.02[9][d]).

Family Law Proceedings

De Novo Hearing Regarding Temporary Orders. Ch. 360A, *Temporary Orders*, has been updated to reflect 2013 amendments changing the deadline for requesting a de novo hearing in the referring court from seven working days to three working days after receipt of notice of the associate judge's report. See § 360A.10[3][g], [5].

Legislature Authorizes Attorney's Fees Award in Divorce Suits. Ch. 362, *Divorce*, has been revised to incorporate new Family Code Section 6.708(c), which authorizes a trial court to order attorney's fees in dissolution suits, and to discuss the effect of the new statute on the Texas Supreme Court's holding in *Tedder v. Gardner Aldrich, LLP* [___ S.W.3d ___, ___, 2013 Tex. LEXIS 393 (Tex. May 17, 2013)]. In *Tedder*, the Court held that a spouse is not personally liable for the other spouse's attorney's fees because attorney's fees are not necessities. See § 362.12[1][c][i].

Enforcement of Spousal Maintenance by Contempt. Ch. 362, *Divorce*, has been revised to reflect amendments to Family Code Chapter 8, clarifying that agreed spousal maintenance is enforceable by contempt and income withholding, but only to the extent of the amount and duration of maintenance that the court could have ordered. See § 362.21[8][a], [c].

Waiver of Citation in Divorce Case Must Be Notarized. Ch. 362, *Divorce*, has been updated to reflect an amendment to the effect that verification of a waiver of citation in a dissolution suit must be done before a notary and not by unsworn declaration under penalty of perjury. See § 362.101.

Supreme Court Adopts Standard Divorce Forms for Use by Pro Se Litigants.

Ch. 362, *Divorce*, now includes the set of forms recently developed by the Texas Supreme Court for use by pro se litigants in uncontested divorces where the parties have no children or real property. Although intended for use by unrepresented parties, the forms may also be used by attorneys in appropriate cases. See § 362.140.

Recent Case Law Concerning Reimbursement in Property Divisions. Ch. 363, *Division of Property*, has been updated to include the holdings in *Barras v. Barras* [396 S.W.3d 154, 174–177 (Tex. App.—Houston [14th Dist.] 2013, no pet. h.)] concerning the dollar-for-dollar and enhancement-of-value measures of reimbursement. See § 363.55[4].

Enforcement of Agreed Property Division. Ch. 364, *Post-Dissolution Property Suits*, has been revised to reflect amendments to the Family Code clarifying that the post-divorce enforcement remedies in Family Code Chapter 9 apply to agreed property divisions as well as to court-ordered property divisions. See § 364.02.

Legislature Clarifies Roles of Guardians and Attorneys ad Litem in SAPCRs. Various changes to the statutory powers and duties of guardians ad litem and attorneys ad litem have been incorporated into Ch. 370, *SAPCR Procedures*. See § 370.07.

Legislature Limits Father's Conservatorship Rights in Cases Involving Sexual Abuse. Ch. 371, *Conservatorship*, has been updated to reflect amendments intended to limit a father's rights to conservatorship, possession, and access with respect to a child conceived as the result of sexual abuse. See § 371.03[6A].

Recent Legislation Concerning Child Support Duties. Ch. 371A, *Child Support*, has been revised to incorporate 2013 legislation, including:

- Amendments to the Family Code

that allow a trial court to impose child support obligations on a father whose parental rights have been terminated if the child was conceived as the result of sexual assault. *See* § 371A.02[2][d].

- Amendments allowing a trial court, in determining whether an obligor is intentionally unemployed or underemployed, to consider evidence that the obligor is a veteran receiving disability benefits. *See* § 371A.03[3][b][iii][B].

Estoppel No Defense to Support Enforcement. Ch. 372, *Enforcement of SAPCR Orders*, has been updated to reflect the Texas Supreme Court's holding that estoppel is not an affirmative defense to a child support enforcement action [Office of the AG v. Scholer [403 S.W.3d 859, 862–867 (Tex. 2013)]. *See* § 372.04[4][c].

Legislature Extends Limitation Period for Suit Alleging Mistaken Paternity, Alters Rule on Accrual of Interest on Child Support Arrearages. Ch. 381, *Termination of Parent-Child Relationship*, has been revised to reflect 2013 legislation extending the limitation period for filing a termination suit based on mistaken paternity from one year to two years. *See* § 381.02[2][b]. The chapter also reflects a 2013 amendment to the effect that child support arrearages no longer accrue interest after the date of termination based on mistaken paternity. *See* § 381.02[2][d].

Deportation of Parent as Ground for Termination of Parental Rights. Ch. 381, *Termination of Parent-Child Relationship*, has been updated to include discussion of

the Texas Supreme Court's holding in *In re E.N.C.* [384 S.W.3d 796, 803–807 (Tex. 2012)], to the effect that deportation of a parent is not, in and of itself, sufficient to establish child endangerment for purposes of an action to terminate parental rights. *See* § 381.03[2][b][ii][I].

Risk of Abuse or Neglect Sufficient to Support Termination of Parental Rights Under “Subsection (O).” Ch. 381, *Termination of Parent-Child Relationship*, has been updated to include discussion of the Texas Supreme Court's holding in *In Interest of E.C.R.* [56 Tex. Sup. J. 666, 402 S.W.3d 239, 2013 Tex. LEXIS 473, *19–*27 (June 14, 2012)] to the effect that, for purposes of determining whether a child was removed from the parent under Family Code Chapter 262 “for abuse or neglect of the child,” placing the child at risk of abuse or neglect is sufficient to satisfy the requirements of Family Code Section 161.001(1)(O).

Probate Litigation

New Estates Code Becomes Effective January 1, 2014. The new Texas Estates Code, initially enacted in 2009 and further amended in the 2011 and 2013 legislative sessions, will become effective on January 1, 2014. The new code extensively revises and reorganizes the statutory provisions relating to decedents' estates and guardianships presently governed by the Probate Code, which is repealed, effective the same date. For further discussion, see the Special Alert preceding Chapter 390 in Volume 24. Volume 24 (Chapters 390 to 411) will be revised to fully reflect the new Estates Code in an upcoming release.

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Publication 719 Release 111

December 2013

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| <input type="checkbox"/> | 130-30.1 thru 130-31 | 130-31 thru 130-32.1 |
| <input type="checkbox"/> | 130-63 thru 130-65 | 130-63 thru 130-65 |

Special Alert

- | | | |
|--------------------------|--|-----------------------|
| <input type="checkbox"/> | Special Alert page SACh131-1 | Material not replaced |
|--------------------------|--|-----------------------|

Revision

- | | | |
|--------------------------|--------------------------------|----------------------|
| <input type="checkbox"/> | 131-1 thru 131-5 | 131-1 thru 131-5 |
| <input type="checkbox"/> | 131-41 thru 131-46.3 | 131-41 thru 131-46.3 |
| <input type="checkbox"/> | 131-123 thru 131-125 | 131-123 thru 131-125 |
| <input type="checkbox"/> | 132-11 thru 132-15 | 132-11 thru 132-15 |
| <input type="checkbox"/> | 132-89 thru 132-90.1 | 132-89 |
| <input type="checkbox"/> | 132-141 thru 132-147 | 132-141 thru 132-145 |
| <input type="checkbox"/> | 133-117 | 133-117 |
| <input type="checkbox"/> | 134-22.1 thru 134-23 | 134-23 |

VOLUME 10

Revision

- | | | |
|--------------------------|----------------------------------|-------------------------|
| <input type="checkbox"/> | Title page. | Title page |
| <input type="checkbox"/> | 145-15 | 145-15 thru 145-16.1 |
| <input type="checkbox"/> | 145-25 thru 145-34.1 | 145-25 thru 145-34.1 |
| <input type="checkbox"/> | 148-13 | 148-13 thru 148-14.1 |
| <input type="checkbox"/> | 148-25 thru 148-27 | 148-25 thru 148-27 |
| <input type="checkbox"/> | 148-36.1 thru 148-37 | 148-37 thru 148-38.1 |
| <input type="checkbox"/> | 148-42.1 thru 148-50.1 | 148-43 thru 148-50.2(3) |
| <input type="checkbox"/> | 148-55 thru 148-57 | 148-55 |
| <input type="checkbox"/> | 150-11 | 150-11 |
| <input type="checkbox"/> | 150-99 | 150-99 thru 150-100.1 |
| <input type="checkbox"/> | 150-163 thru 150-165 | 150-163 thru 150-165 |
| <input type="checkbox"/> | 151-69 | 151-69 thru 151-70.1 |
| <input type="checkbox"/> | 151-122.1 thru 151-125 | 151-123 thru 151-125 |
| <input type="checkbox"/> | 152-53 thru 152-54.1 | 152-53 thru 152-54.1 |
| <input type="checkbox"/> | 152-69 | 152-69 thru 152-70.1 |
| <input type="checkbox"/> | 152-101 thru 152-110.1 | 152-101 thru 152-110.1 |
| <input type="checkbox"/> | 153-5 thru 153-9 | 153-5 thru 153-9 |
| <input type="checkbox"/> | 153-25 thru 153-26.1 | 153-25 thru 153-26.1 |
| <input type="checkbox"/> | 153-37 | 153-37 thru 153-38.1 |
| <input type="checkbox"/> | 153-53 thru 153-55 | 153-53 thru 153-56.1 |

Check *Remove Old*
As Pages Numbered
Done

Insert New
Pages Numbered

VOLUME 11

Revision

<input type="checkbox"/>	Title page.	Title page
<input type="checkbox"/>	160-16.1 thru 160-17	160-17 thru 160-18.1
<input type="checkbox"/>	160-29	160-29 thru 160-30.1
<input type="checkbox"/>	165-5 thru 165-15	165-5 thru 165-16.1
<input type="checkbox"/>	171-38.1 thru 171-41	171-39 thru 171-42.1
<input type="checkbox"/>	171-75 thru 171-77	171-75 thru 171-77

VOLUME 12

Revision

<input type="checkbox"/>	Title page.	Title page
<input type="checkbox"/>	180-9 thru 180-10.1	180-9 thru 180-10.1
<input type="checkbox"/>	181-11	181-11 thru 181-12.1
<input type="checkbox"/>	182-27 thru 182-28.5	182-27 thru 182-28.5
<input type="checkbox"/>	183-7 thru 183-19	183-7 thru 183-20.1
<input type="checkbox"/>	183-32.1 thru 183-34.1	183-33 thru 183-34.1

VOLUME 13

Revision

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<input type="checkbox"/>	200-9 thru 200-11	200-9 thru 200-12.1
<input type="checkbox"/>	200-29 thru 200-31	200-29 thru 200-32.1
<input type="checkbox"/>	200-41	200-41 thru 200-42.1
<input type="checkbox"/>	200-59 thru 200-61	200-59 thru 200-62.1
<input type="checkbox"/>	200-75 thru 200-87	200-75 thru 200-88.1
<input type="checkbox"/>	200B-1 thru 200B-7	200B-1 thru 200B-8.1
<input type="checkbox"/>	200B-27 thru 200B-29.	200B-27 thru 200B-30.1
<input type="checkbox"/>	200B-43 thru 200B-65.	200B-43 thru 200B-66.3
<input type="checkbox"/>	200B-75 thru 200B-79.	200B-75 thru 200B-79
<input type="checkbox"/>	201-9.	201-9 thru 201-10.1
<input type="checkbox"/>	201-35	201-35
<input type="checkbox"/>	203-1.	203-1 thru 203-2.1
<input type="checkbox"/>	203-9 thru 203-13	203-9 thru 203-14.1
<input type="checkbox"/>	203-22.1 thru 203-28.1	203-23 thru 203-28.5
<input type="checkbox"/>	203-59	203-59 thru 203-60.1
<input type="checkbox"/>	203-78.1 thru 203-81	203-79 thru 203-82.1
<input type="checkbox"/>	203-91 thru 203-94.5	203-91 thru 203-94.5
<input type="checkbox"/>	203-127	203-127 thru 203-128.1
<input type="checkbox"/>	203A-5 thru 203A-6.1	203A-5 thru 203A-6.1

Check As Done	<i>Remove Old <u>Pages Numbered</u></i>	<i>Insert New <u>Pages Numbered</u></i>
<input type="checkbox"/>	203A-29	203A-29
<input type="checkbox"/>	203A-77 thru 203A-78.5	203A-77 thru 203A-78.7
<input type="checkbox"/>	203A-91 thru 203A-101	203A-91 thru 203A-102.1
<input type="checkbox"/>	203A-112.1 thru 203A-117.	203A-113 thru 203A-118.1
<input type="checkbox"/>	203A-127 thru 203A-155	203A-127 thru 203A-156.13
<input type="checkbox"/>	203A-162.9 thru 203A-162.29	203A-162.9 thru 203A-162.30(1)
<input type="checkbox"/>	205-9 thru 205-13.	205-9 thru 205-14.1

VOLUME 14

Revision

<input type="checkbox"/>	Title page.	Title page
<input type="checkbox"/>	210-107 thru 210-108.1	210-107 thru 210-108.1
<input type="checkbox"/>	210-143 thru 210-145	210-143 thru 210-145
<input type="checkbox"/>	210A-21 thru 210A-23	210A-21 thru 210A-24.1
<input type="checkbox"/>	210A-77 thru 210A-81	210A-77 thru 210A-82.1
<input type="checkbox"/>	210A-121 thru 210A-129	210A-121 thru 210A-130.1
<input type="checkbox"/>	210A-140.1 thru 210A-140.3.	210A-140.1 thru 210A-140.3
<input type="checkbox"/>	210A-151 thru 210A-152.1	210A-151 thru 210A-152.2(1)
<input type="checkbox"/>	210A-161.	210A-161 thru 210A-162.1
<input type="checkbox"/>	210A-177 thru 210A-181	210A-177 thru 210A-181
<input type="checkbox"/>	211-3 thru 211-9	211-3 thru 211-10.1
<input type="checkbox"/>	212-21	212-21 thru 212-22.1
<input type="checkbox"/>	214-5.	214-5
<input type="checkbox"/>	214-51	214-51
<input type="checkbox"/>	216-31 thru 216-47	216-31 thru 216-47
<input type="checkbox"/>	220-19 thru 220-21	220-19 thru 220-22.1
<input type="checkbox"/>	220-29 thru 220-35	220-29 thru 220-36.3
<input type="checkbox"/>	220-47 thru 220-50.3	220-47 thru 220-50.3
<input type="checkbox"/>	220-61 thru 220-63	220-61 thru 220-64.1
<input type="checkbox"/>	220-86.1 thru 220-86.3	220-86.1 thru 220-86.3
<input type="checkbox"/>	220A-51 thru 220A-57	220A-51 thru 220A-58.1
<input type="checkbox"/>	221-16.1	221-16.1

VOLUME 15

Revision

<input type="checkbox"/>	Title page.	Title page
<input type="checkbox"/>	231-13	231-13 thru 231-14.1
<input type="checkbox"/>	232-5.	232-5 thru 232-6.1
<input type="checkbox"/>	232-43 thru 232-52.5	232-43 thru 232-52.1
<input type="checkbox"/>	233-95 thru 233-103.	233-95 thru 233-104.1
<input type="checkbox"/>	234-3.	234-3 thru 234-4.1
<input type="checkbox"/>	234-43 thru 234-45	234-43 thru 234-45

Check As Done	<i>Remove Old <u>Pages Numbered</u></i>	<i>Insert New <u>Pages Numbered</u></i>
<input type="checkbox"/>	234-67	234-67
<input type="checkbox"/>	234-121 thru 234-123	234-121 thru 234-123

VOLUME 16

Revision

<input type="checkbox"/>	Title page.	Title page
<input type="checkbox"/>	235-15 thru 235-17	235-15 thru 235-17
<input type="checkbox"/>	240-43	240-43
<input type="checkbox"/>	241-9.	241-9
<input type="checkbox"/>	242-27 thru 242-35	242-27 thru 242-35
<input type="checkbox"/>	242-40.1 thru 242-40.3	242-40.1 thru 242-40.3

VOLUME 17

Revision

<input type="checkbox"/>	Title page.	Title page
<input type="checkbox"/>	250-17	250-17
<input type="checkbox"/>	251-9 thru 251-10.1	251-9 thru 251-10.1
<input type="checkbox"/>	251-16.7 thru 251-16.9	251-16.7 thru 251-16.9
<input type="checkbox"/>	252-17	252-17 thru 252-18.1
<input type="checkbox"/>	252-31 thru 252-33	252-31 thru 252-34.7
<input type="checkbox"/>	252-87 thru 252-88.1	252-87 thru 252-88.1
<input type="checkbox"/>	254-11 thru 254-14.3	254-11 thru 254-14.7
<input type="checkbox"/>	254-28.1	254-28.1
<input type="checkbox"/>	254-40.1 thru 254-44.1	254-41 thru 254-44.3
<input type="checkbox"/>	255-19 thru 255-34.11	255-19 thru 255-34.17
<input type="checkbox"/>	255-55 thru 255-70.1	255-55 thru 255-70.3
<input type="checkbox"/>	260-7 thru 260-48.1	260-7 thru 260-48.7
<input type="checkbox"/>	260-57 thru 260-67	260-57 thru 260-68.1
<input type="checkbox"/>	260-91 thru 260-94.4(1)	260-91 thru 260-94.4(1)
<input type="checkbox"/>	260-94.13 thru 260-94.37	260-94.13 thru 260-94.38(3)
<input type="checkbox"/>	261-137	261-137 thru 261-138.1

VOLUME 18

Revision

<input type="checkbox"/>	Title page.	Title page
<input type="checkbox"/>	270-19 thru 270-28.5	270-19 thru 270-28.11
<input type="checkbox"/>	270-36.4(1) thru 270-36.11.	270-36.5 thru 270-36.13
<input type="checkbox"/>	270-47	270-47
<input type="checkbox"/>	270A-13	270A-13 thru 270A-14.1
<input type="checkbox"/>	271-23	271-23 thru 271-24.1
<input type="checkbox"/>	271-46.1 thru 271-48.5	271-47 thru 271-48.9

Check As Done	<i>Remove Old <u>Pages Numbered</u></i>	<i>Insert New <u>Pages Numbered</u></i>
<input type="checkbox"/>	280-11 thru 280-13	280-11 thru 280-14.1
<input type="checkbox"/>	280-45 thru 280-47	280-45 thru 280-47
<input type="checkbox"/>	281-49 thru 281-55	281-49 thru 281-56.1

Special Alert

<input type="checkbox"/>	Special Alert page SAch282-1	Material not replaced
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Revision

<input type="checkbox"/>	282-5 thru 282-10.1	282-5 thru 282-10.1
<input type="checkbox"/>	282-21 thru 282-22.1	282-21 thru 282-22.2(1)
<input type="checkbox"/>	282-49 thru 282-50.1	282-49 thru 282-50.1
<input type="checkbox"/>	282-62.1 thru 282-69	282-63 thru 282-70.1
<input type="checkbox"/>	282-79 thru 282-117.	282-79 thru 282-118.25
<input type="checkbox"/>	282-129 thru 282-137	282-129 thru 282-138.1
<input type="checkbox"/>	282-147 thru 282-167	282-147 thru 282-168.1
<input type="checkbox"/>	283-9.	283-9 thru 283-10.1
<input type="checkbox"/>	283-31 thru 283-33	283-31 thru 283-34.1
<input type="checkbox"/>	284-12.1 thru 284-16.3	284-13 thru 284-16.3
<input type="checkbox"/>	284-31	284-31
<input type="checkbox"/>	285-23 thru 285-26.1	285-23 thru 285-26.2(3)
<input type="checkbox"/>	285-46.5 thru 285-46.13	285-46.5 thru 285-46.14(1)

VOLUME 19

Revision

<input type="checkbox"/>	Title page.	Title page
<input type="checkbox"/>	290-61 thru 290-62.5	290-61 thru 290-62.5
<input type="checkbox"/>	290-94.1 thru 290-96.1	290-95 thru 290-96.3
<input type="checkbox"/>	291-53 thru 291-55	291-53 thru 291-56.1
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<input type="checkbox"/>	293-40.1 thru 293-42.1	293-41 thru 293-42.1
<input type="checkbox"/>	293-51 thru 293-53	293-51 thru 293-54.1
<input type="checkbox"/>	293-88.1 thru 293-89	293-89 thru 293-90.1
<input type="checkbox"/>	293-92.9 thru 293-97	293-93 thru 293-98.3
<input type="checkbox"/>	293-106.5 thru 293-106.8(1)	293-106.5 thru 293-106.8(1)
<input type="checkbox"/>	293-133 thru 293-136.8(3)	293-133 thru 293-136.8(4)(a)
<input type="checkbox"/>	293-136.8(13) thru 293-136.8(15)	293-136.8(13) thru 293-136.8(15)
<input type="checkbox"/>	302-5.	302-5 thru 302-6.1
<input type="checkbox"/>	302-29 thru 302-32.5	302-29 thru 302-32.7
<input type="checkbox"/>	310-39 thru 310-40.1	310-39 thru 310-40.1

VOLUME 20

Revision

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"/>	320-57 thru 320-58.1	320-57 thru 320-58.1
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<input type="checkbox"/>	321-17 thru 321-30.3	321-17 thru 321-30.21
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<input type="checkbox"/>	321-62.1 thru 321-62.3	321-62.1 thru 321-62.3
<input type="checkbox"/>	321-71	321-71 thru 321-72.1
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<input type="checkbox"/>	321-97 thru 321-104.17	321-97 thru 321-104.18(9)
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<input type="checkbox"/>	322-33 thru 322-34.7	322-33 thru 322-34.7
<input type="checkbox"/>	322-54.1 thru 322-54.17	322-54.1 thru 322-54.19
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<input type="checkbox"/>	331-3 thru 331-4.1	331-3 thru 331-4.1
<input type="checkbox"/>	331-30.1 thru 331-30.5	331-30.1 thru 331-30.5
<input type="checkbox"/>	332-13	332-13 thru 332-14.1
<input type="checkbox"/>	332-19 thru 332-21	332-19 thru 332-21
<input type="checkbox"/>	333-3 thru 333-50.1	333-3 thru 333-50.3
<input type="checkbox"/>	333-63 thru 333-78.5	333-63 thru 333-78.13
<input type="checkbox"/>	333-91	333-91
<input type="checkbox"/>	333-111	333-111 thru 333-112.1
<input type="checkbox"/>	333-137 thru 333-141	333-137 thru 333-141
<input type="checkbox"/>	335A-59	335A-59 thru 335A-60.1

VOLUME 21

Revision

<input type="checkbox"/>	Title page.	Title page
<input type="checkbox"/>	340-9 thru 340-33	340-9 thru 340-34.3
<input type="checkbox"/>	340-88.9 thru 340-88.15	340-88.9 thru 340-88.17
<input type="checkbox"/>	341-25 thru 341-27	341-25 thru 341-28.1
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<input type="checkbox"/>	344-37 thru 344-38.1	344-37 thru 344-38.1
<input type="checkbox"/>	344-51 thru 344-52.1	344-51 thru 344-52.1
<input type="checkbox"/>	344-73	344-73 thru 344-74.1
<input type="checkbox"/>	345-26.1 thru 345-27	345-27 thru 345-28.1
<input type="checkbox"/>	345-71	345-71 thru 345-72.1

VOLUME 22

Check As Done	<i>Remove Old <u>Pages Numbered</u></i>	<i>Insert New <u>Pages Numbered</u></i>
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Revision

<input type="checkbox"/>	Title page.	Title page
<input type="checkbox"/>	360A-9 thru 360A-10.1	360A-9 thru 360A-10.1
<input type="checkbox"/>	360A-19 thru 360A-39	360A-19 thru 360A-40.1
<input type="checkbox"/>	362-3 thru 362-9	362-3 thru 362-9
<input type="checkbox"/>	362-25 thru 362-29	362-25 thru 362-30.1
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<input type="checkbox"/>	363-63 thru 363-87	363-63 thru 363-79
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<input type="checkbox"/>	370-37 thru 370-40.5	370-37 thru 370-40.5
<input type="checkbox"/>	370-57 thru 370-64.1	370-57 thru 370-64.11
<input type="checkbox"/>	371-1.	371-1 thru 371-2.1
<input type="checkbox"/>	371-13 thru 371-23	371-13 thru 371-24.3
<input type="checkbox"/>	371-53	371-53 thru 371-54.1
<input type="checkbox"/>	371-85 thru 371-89	371-85 thru 371-89
<input type="checkbox"/>	371-141	371-141 thru 371-142.1
<input type="checkbox"/>	371-178.1 thru 371-179	371-179 thru 371-180.5
<input type="checkbox"/>	371A-11 thru 371A-16.1	371A-11 thru 371A-16.1
<input type="checkbox"/>	371A-25 thru 371A-47	371A-25 thru 371A-48.3
<input type="checkbox"/>	371A-95 thru 371A-96.7	371A-95 thru 371A-96.5

VOLUME 23

Revision

<input type="checkbox"/>	Title page.	Title page
<input type="checkbox"/>	372-67 thru 372-77	372-67 thru 372-77
<input type="checkbox"/>	372-109 thru 372-117	372-109 thru 372-117
<input type="checkbox"/>	373-41 thru 373-55	373-41 thru 373-56.3
<input type="checkbox"/>	374-11 thru 374-19	374-11 thru 374-20.1
<input type="checkbox"/>	380-23 thru 380-25	380-23 thru 380-26.1
<input type="checkbox"/>	381-1 thru 381-13	381-1 thru 381-14.1
<input type="checkbox"/>	381-31	381-31 thru 381-32.1
<input type="checkbox"/>	381-43 thru 381-65	381-43 thru 381-66.5
<input type="checkbox"/>	381-80.1 thru 381-89	381-81 thru 381-90.9
<input type="checkbox"/>	381-109 thru 381-121	381-109 thru 381-122.3
<input type="checkbox"/>	382-31	382-31

Check As Done	<i>Remove Old <u>Pages Numbered</u></i>	<i>Insert New <u>Pages Numbered</u></i>
<input type="checkbox"/>	382-87 thru 382-91	382-87 thru 382-91
<input type="checkbox"/>	382-117 thru 382-119	382-117 thru 382-119
<input type="checkbox"/>	382-139 thru 382-143	382-139 thru 382-143

VOLUME 24

Revision

<input type="checkbox"/>	Title page.	Title page
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Special Alert

<input type="checkbox"/>	No Material removed	Special Alert page SACh390-1 (file preceding 390-1)
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Revision

<input type="checkbox"/>	415-1 thru 415-19	415-1 thru 415-19
<input type="checkbox"/>	415-31 thru 415-47	415-31 thru 415-52.3

VOLUME 25

Revision

<input type="checkbox"/>	Title page.	Title page
<input type="checkbox"/>	421-11 thru 421-14.1	421-11 thru 421-14.1
<input type="checkbox"/>	421-29	421-29 thru 421-30.1
<input type="checkbox"/>	423-3 thru 423-23	423-3 thru 423-24.1
<input type="checkbox"/>	423-47 thru 423-51	423-47 thru 423-51
<input type="checkbox"/>	424-33 thru 424-35	424-33 thru 424-35

VOLUME 26

Revision

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<input type="checkbox"/>	I-285 thru I-459.	I-285 thru I-460.1
<input type="checkbox"/>	I-569 thru I-685.	I-569 thru I-686.1
<input type="checkbox"/>	I-873 thru I-983.	I-873 thru I-984.3

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