Government Law Section

of the State Bar of Texas



June 12, 2018

This month's article is regarding the benefits of State Bar and section members, submitted by Ann Greenberg. If you are interested in reading this article, please click here.

UPDATE: The Government Law Council library has recently been updated with all of last year's CLE papers and information. If you are interested in reviewing the library, as part of your membership, please click here.

We hope you enjoy this monthly article installment, which is just one of the benefits of being a member of the Government Law Section.

John Grace, Chair
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Plaintiff's pro se brief insufficient to preserve arguments on appeal holds Dallas Court of Appeals *Gilberto Hernandez v. Dallas Independent School District,* 05-17-00227-CV (Tex. App. – Dallas, April 18, 2018)

The Dallas Court of Appeals upheld the granting of the school districts plea to the jurisdiction in a constitutional challenge and Whistleblower case brought by a school teacher whose contract was not renewed. Plaintiff failed to plead a constitutional challenge and failed to establish he met the elements of a Whistleblower claim by reporting to an appropriate law enforcement agency.

Expanded summary here.

Texas Supreme Court holds TTCA caps are cumulative, inclusive of independent contractors and their employees performing governmental functions *Fort Worth Transportation Authority, et al., v Rodriquez,* et al., 16-0542 (Tex. App. – April 27, 2018)

Transportation authority contracted with a private company to run its buses. Texas Transportation Code §452.056(d) states an independent contractor of a transportation authority, while not a governmental entity, is liable for damages only to the extent that the authority or entity would be liable if the authority or entity itself were performing the function. The Court held the maximum exposure under the Texas Tort Claims Act, in total, is $100,000.00. Plaintiff is not entitled to $100,000.00 from entity, then another cap from the contractor.

Expanded summary found here.

City of San Saba v. Dianne Higginbotham and Gary Higginbotham 03-17-00408-CV (Tex. App. – Austin, May 1, 2018)

City did not waive its immunity by signing a settlement agreement. After Higginbothams sued both the City and San Saba Pecan, LP, alleging that a sewer backup on its property was caused by San Saba, pecan dumping pecan shells and residue into the public sewer system, the parties entered into a settlement for repairs. When the Higginbothams refused to dismiss the case, asserting a beach of contact for lack of proper repairs, the City filed a plea to the jurisdiction. The City's operation of a sewer system is a governmental function. Entering into a potential settlement does not transform the function into a proprietary one.

If you would like to read this opinion, click here.

City of Justin v. Town of Northlake 06-17-00054-CV (Tex. App. – Texarkana, May 2, 2018)

This is a dispute over extra-territorial jurisdiction. While Tex. Loc. Gov't Code §43.021 authorizes a home-rule city to exchange ETJ boundaries, it does not address the power of a general law city. Northlake, as a general law, was required to prove that its agreement and the resulting ETJ boundaries complied with the statutory provisions of the Local Government Code, including §42.021. The court held Northlake could exchange ETJ existing within its ½ statutory boundary but could not extend its ETJ by agreement. None of the record sufficiently establishes Fort Worth exchanged an area with Northlake within Northlake's authority. The court held Northlake received an area that was outside its one-half mile statutorily described boundary, which was improper.

If you would like to read this opinion click here.

Alicia Guajardo v. UTMB Medical Branch, Galveston 01-17-00288-CV (Tex. App. – Houston, May 3, 2018)

Guajardo was a nurse employed by UTMB. She brought a gender discrimination case. Court held Guajardo failed to establish a prima facie case of discrimination because she failed to show that she received less favorable treatment than a similarly-situated non-Hispanic employee.

If you would like to read this opinion, click here.

Harris County v Annab, No. 17-0329, — S.W.3d. — (Tex. May 11, 2018)

An off-duty deputy shot a motorist in a fit of road rage. The deputy was in his personal vehicle and used his personal gun. The deputy was convicted. The motorist sued the Authority under the Texas Tort Claims Act. However, nothing indicates the County had any involvement. It did not provide the gun and the deputy was not on duty. No waiver of immunity exists.

If you would like to read this opinion, click here.

Collin County v City of McKinney, et.al., 05-17-005460CV, (Tex. App. – Dallas, May 11, 2018).

Court held the City of McKinney lacks authority to enforce its building codes and related building inspection requirements within its extraterritorial jurisdiction, but it has authority to require a landowner to plat its property.

If you would like to read this opinion, click here.

CLE for the month of June-July:

Texas City Attorneys Association Summer Conference, June 13-15, 2018 (Bastrop)

Advanced Evidence and Discovery 2018, June 14-15, 2018 (Austin) (video)

Conference on State and Federal Appeals, June 14-15, 2018 (Austin)

2018 Forensic Evidence Seminar, June 13-15, 2018 (Addison)

Rolling Stoned: Investigating & Prosecuting the Drugged Driver, June 20, 2018 (Kountze)

Advanced Evidence and Discovery 2018, June 21-22, 2018 (Houston) (video)

Rolling Stoned: Investigating & Prosecuting the Drugged Driver, June 22, 2018 (El Paso)

Insurance Law 101: 2018, June 27, 2018 (San Antonio)

2018 TMCEC Prosecutors Conference June 25-27, 2018 (San Antonio)

Advanced Insurance Law 2018, June 28-29, 2018 (San Antonio)

Winning at Deposition: Skills and Strategy, June 28, 2018 (Houston)

Essential Employment Law, June 29, 2018 (Houston) (live webcast available)

2018 Prosecutor Trial Skills Course, July 8-13, 2018 (San Antonio)

Real Estate Law 101: 2018, July 11, 2018 (San Antonio)

Advanced Real Estate Law Course 2018, July 12-14 (San Antonio)

Government Law 101: 2018, July 18, 2018 (San Antonio)

Advanced Government Law 2018, July 19-20, 2018 (San Antonio)

Criminal Law 101: 2018, July 22, 2018 (San Antonio)

Advanced Criminal Law Course 2018, July 23-26, 2018 (San Antonio)

2018 Advanced Trial Advocacy Course, July 23-27, 2018 (Waco)

Essential Cybersecurity Law, July 25, 2018 (Houston) (Live Webcast)

Advanced Personal Injury Law Course 2018, July 25-27, 2018 (San Antonio)

Advanced Administrative Law Course 2018, July 26-27, 2018 (Austin) (video)