



# LAW LIBRARY NEWS

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## Attorney Lecturer Series

The Law Library will be hosting an **Attorney Lecture Series** on Friday, **March 12** at 2 pm. This class will cover **“Starting your Own Law Practice and Giving those First Client Interviews.”** It will be taught by Attorney Rocky Pilgrim. The class will be virtual and taught over WebEx. Registration is required as space is limited. To register, visit our website at [www.fortbend.lib.tx.us](http://www.fortbend.lib.tx.us). Class will be recorded for later viewing.

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## New & Updated Resources

### *Texas Practice Guide*

- Family Law
- 2021 Edition

### *Blue’s Guide to Jury Selection*

- 2021 Update

### *Texas Workers’ Compensation Manual*

- 2021 Edition

### *Family Law Depositions*

- 2021 Update

### *Texas Practice Series*

- Criminal Law
- 2021 Update

### *Legal Information Buyer’s Guide and Reference Manual*

- 2020 Edition

### *A Layperson’s Guide to Legal Research and Self Help Law Books*

- 2019 Edition

### *West’s Texas Forms*

- 2021 Update

## FBC Bar News

### Fort Bend County Bar Association

The Fort Bend County Bar Association may have another virtual CLE. Date and topic is TBD. Check their website for more information.

### Family Bar of Fort Bend County

The Family Bar may have another virtual CLE. Date and topic is TBD. Check their website for information.

### Fort Bend County Criminal Defense Attorneys Association

The Criminal Bar will be holding a CLE on Thursday, February 25 at 12 pm. Topic will be Criminal Grounds of Inadmissibility and Deportability: The Immigration Consequences of Criminal Convictions.



## Featured Resource: Texas Small-Firm Practice Tools

**By: Jonathan Briggs**

The Fort Bend County Law Library has recently received an updated 2020 print edition of *Texas Small-Firm Practice Tools* from **James Publishing**, so it is a good time to revisit this 2-volume set that is jam-packed with information and forms that are useful to any attorney or pro se patron. This edition (Revision 14) is by Cindy Stormer, a Texas attorney with over 30 years of practice in areas such as civil litigation, family law, estate and probate, and criminal law. Her broad experience makes her uniquely qualified to author this practice guide that covers so many bread and butter areas of the law that a solo practitioner, small firm, or self-represented litigants routinely deal with. This publication has long been a staple of the Law Library and is one of our go-tos for practical information and its vast collection of standard forms in the following areas: Civil Litigation; Car Accidents; Consumer Protection; Business Litigation; Landlord-Tenant; Employer and Employee Relations; Credit and Collections; Organizing and Operating a Small Business; Buying and Selling a Small Business; Divorce; Estate Planning and Administration; Guardianships; DWI Defense; Misdemeanor Defense; and Real Estate. *Texas Small-Firm Practice Tools* provides hundreds of standard pleadings such as petitions, answers, and motions as well as various letters and notices, basic law office forms, checklists, discovery, and trial materials. In addition there are standard documents for use in transactional and non-litigation work. This and most other James Publishing works are also available via the **Lexis** legal database on several of our patron computers. From Lexis these materials can be either downloaded to your thumbdrive or e-mailed to you in Word, Word Perfect, or PDF for free. Additionally, with your Fort Bend County library card and pin # this and many other publications can be accessed 24/7 from the **Lexis Digital Library** via the legal databases section of the Fort Bend County Library System's website: <https://lexisdl.com/welcome/login/fortbendco?origination=%2Flibrary%2Ffortbendco>.

James Publishing's forms are also kept in Word format in the James folder on the desktop of all our patron computers. Copies and printouts can be made for 10 cent a page. *Texas Small-Firm Practice Tools* is an excellent, broad, in-depth, and extremely useful resource that we are proud to offer to our patrons in so many accessible formats. For more information please contact the Law Library.



## Technology Corner: Lexis Advance Temporary ID

**By: Andrew Bennett**

Lexis Nexis is offering a **FREE temporary ID** to the users of the Fort Bend County Law Library. What does this mean? It means you will have access to our subscription of **Lexis Advance** for a



limited time. This access can also be renewed. What do you need to get access? We ask that you have a **current Library card with Fort Bend County Libraries**. You can renew your card by calling us at 281-341-3718. To get a new card, you will need to go online to <https://www.fortbend.lib.tx.us/landing-page/get-or-renew-full-service-library-card-or-ecard>. Once you fill out the form, our staff will send you a barcode number. After you have gotten a library card, renewed it, or have one that is current then you can call us or email us at [LLpublic@fortbend.lib.tx.us](mailto:LLpublic@fortbend.lib.tx.us). We will then confirm you are up to date with us and then send off to Lexis to create you a temporary ID. This ID will then be emailed to you with instructions on how to login. This login gives you access to all of our **Lexis and Matthew Bender publications** like *Dorsaneo's Texas Litigation Guide* and the **James Publishing** books such as *Texas Probate Forms and Procedures*. As always, the documents can be printed, downloaded, or emailed. For more information, contact the Law Library.



## Community News

- The **Fort Bend County Law Library** has started **virtual classes** including **Pro Se Basics** and **Express Classes**. Check out schedule at <https://www.fortbend.lib.tx.us/about-us/location-hours-map/law-library>.
- The **Harris County Law Library** has started **virtual classes**. Check out the variety of classes they offer for online training at <https://www.harriscountylawlibrary.org/training-opportunities-calendar/?category=Online+Events>
- The **Texas State Law Library** has a lot of **digital resources** at your disposal. Please **create a digital library account** for access. For more information, visit their website at <https://www.sll.texas.gov/about-us/get-a-library-account/>.
- **Re:search TX** allows you to research case law from all 254 Texas counties. Some documents do require payment to access. Account set up is free. Go to <https://research.txcourts.gov/CourtRecordsSearch/Home>. Or you can check out Google Scholar for case law research at <http://scholar.google.com>.
- **E-File Texas** allows you to file your documents electronically to Fort Bend County courts or any other courts in the state of Texas. Go to <http://www.efiletexas.gov/>.



## Texas Lawyers

The State Bar of Texas offers confidential assistance to attorneys, judges, and law students who are facing substance abuse and mental health issues through its [Lawyers Assistance Program](#). Professional staff members are available 24/7 by phone to help with crisis counseling and referrals to local professionals and support groups. For assistance,

## To Include Items

If you have any information on upcoming CLEs, conferences, etc. that you think would be useful to include in the newsletter, please send an email to [abennett@fortbend.lib.tx.us](mailto:abennett@fortbend.lib.tx.us) with “Newsletter” as the subject.

## To Unsubscribe from

If you do not want to receive the Law Library newsletter, please send an email to [abennett@fortbend.lib.tx.us](mailto:abennett@fortbend.lib.tx.us) with “Unsubscribe” as the subject and include the email address to be removed.



## Texas Case Law Update

### Local Cases

- [In Re Andrew P. Shannon](#), No. 01-21--00037/00038-CR (February 2, 2021): Pet. Writ. Mand. Denied. (240th)
- [In Re Jagan Mahadavan](#), No. 01-21-00056-CV (February 4, 2021): Pet. Writ. Mand. Denied. (240th)
- [Cassidy Daniels, et al. v. Radley Staffing, LLC](#), No. 14-19-00054-CV (January 28, 2021): Aff'd. TC Judgment. (400th)
- [Rosale v. Duffy v. Curry P. Duffy](#), No. 14-19-00134-CV (January 28, 2021): Appeal Dismissed. (328th)
- [Fotios Kallergis v. Allyson Brupbacher, et al.](#), No. 14-19-00470-CV (February 11, 2021): Affirmed as Modified. (240th)

### Criminal Law—Witnesses/Confrontation Clause

*James R. Haggard v. The State of Texas*, 612 S.W.3d 318 (Tex.Crim.App. 2020). Defendant was convicted of sexual assault of a child. As part of the investigation a Sexual Assault Nurse Examiner (SANE) examined the victim. Between the time of the SANE exam and the trial, the examiner, Ms. Devore, moved out of state. Nurse Devore had agreed to testify at trial in person as a prosecution witness and was not subpoenaed by the State. At the last minute she told prosecutors she would not voluntarily appear. The State requested that she be allowed to testify via FaceTime. Her testimony was essential as only she could prove the SANE results necessary for the admission of the DNA evidence. The trial court granted the motion over Defendant's objection. Despite her refusal she was able to travel and the expenses were to be covered by the State. But she changed her mind based on her claimed economic considerations as she would miss work and lose wages. Though she was able to testify on these issues no evidence was put in the record as to her financial burden. Given the timing the State was unable to subpoena her nor did it ask for a continuance. The Court of Criminal Appeals did an analysis under the 6<sup>th</sup> Amendment's Confrontation Clause, citing the U.S. Supreme Court that a criminal defendant has a right to physically confront witnesses testifying against them, citing examples where this right has been violated and where a lack of direct confrontation has been justified such as when a child-victim was testifying. However, the trial court must conduct an evidentiary inquiry and make case-specific findings of necessity when considering alternate arrangements to in-person testimony, even with two-way video conferencing. The Court did not concern itself with the reliability of alternate means but whether allowing remote testimony furthered an important public policy, concluding that it did not. Further, no evidence on these issues was admitted and the trial court made no case-specific findings. The fact that she was never subpoenaed and no continuance was sought was important. Devore's stated reasons were not sufficient to excuse the right to in-person confrontation, the core of the 6<sup>th</sup> Amendment. Concluding that the trial court constitutionally erred the Court then looked at the harm issue. The State, as the beneficiary of the error, had the burden to prove beyond a reasonable doubt that the error was harmless. They reversed the judgment of the Court of Appeals that had upheld the trial court and remanded to the appeals court to reassess on the harm issue.

### Civil Litigation—Employment Law—Age Discrimination

*Texas Tech University Health Sciences Center – El Paso v. Loretta K. Flores*, 612 S.W.3d 299 (Tex. 2020). The Supreme Court's opening line in this age discrimination case is: "Texas law prohibits employers from taking adverse employment actions against employees because they are older, but it doesn't prohibit them from taking such actions against employees who are older", essentially telegraphed its ruling. Plaintiff had been a Tech employee since 1993, first as a temporary medical secretary ultimately becoming the director of operations for the Dean, consistently earning positive evaluations and reviews. In 2013 her employer transitioned from being a regional campus of Texas Tech to a separate university. Flores' status was re-classified and she was re-assigned to another position resulting in a salary reduction from \$87k to \$64k. She was 59 years old and the employee that replaced her was 20 years younger and was to be paid \$30k less a year. No other re-classified admin. employees received a pay cut except Flores. Tech's plea to the jurisdiction was denied and affirmed by the El Paso Court of Appeals. It concluded that Flores' evidence created a fact issue on whether she was replaced by a younger worker and that the stated reasons for Flores' reclassification were pretexts for age discrimination. The Supreme Court granted Tech's petition for review. The key issue in an age discrimination suit is whether the employee's age was a motivating factor, even if other factors also motivated the decision. The Texas Commission of Human Rights Act waives the state's sovereign immunity from suit if the plaintiff alleges facts that the state agency violated the Act sufficient to create a genuine fact issue with all doubts and inferences resolved in favor of the plaintiff. Tech argued that in its plea it established age was not a motivating factor which was not rebutted. As direct evidence of discrimination rarely exists, circumstantial evidence is allowed under this framework: 1) plaintiff must create presumption of discrimination by establishing a prima facie case; 2) defendant can then rebut the presumption by showing a legitimate non-discriminatory reason; and, 3) plaintiff can overcome this rebuttal by showing it was a pretext. The Supreme Court found that she failed to establish a prima facie case and thus it did not even need to address the other issues. Though Flores met several of the factors that support a prima facie case, it was found that she did not establish that she was either replaced by someone significantly younger or otherwise treated less favorably than others who were similarly situated but outside her class. The Court then went into a detailed analysis of this two-pronged factor. The Supreme Court summed up that simply because Flores was on the losing end of changes made by her employer it does not justify an age discrimination suit. The Court concluded that she failed to present evidence from which a reasonable juror could conclude that her age was a motivating factor behind her demotion. Thus sovereign immunity waived and the denial of Texas Tech's plea to the jurisdiction was error. Reversed and rendered dismissing Flores' claims for lack of jurisdiction. This Supreme Court case again points up the significant challenges plaintiffs face in maintaining age discrimination suits.

**For more information on recent cases, contact the Law Library.**

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Email: [LLpublic@fortbend.lib.tx.us](mailto:LLpublic@fortbend.lib.tx.us) Telephone: (281) 341-3718 Fax: (281) 342-0734



## Librarian Musings: Using WebEx and Zoom for Programming

COVID-19 has brought us many challenges over the last 11 months. One major challenge has been to figure out how to provide good and effective programming to our patrons. Here's our decision making process including the pros and con of using both services for virtual programs.

Starting in June, we began giving our virtual programs. The Attorney Lecture Series had to be set up differently as our presenter needed to use the application in addition to our patrons. We found out pretty quickly that having the presenter also join the presentation from their office was easier than having them come to the Law Library and present from here. By having the presenter join remotely, we could maintain social distancing and facilitate the program by responding to questions in the chat and instructing the patrons on muting their microphones and other logistics. The presenter could just give the program and not worry about anything else. All in all, Zoom is intuitive, easy to facilitate, and allows sharing both by the host and the viewers (if enabled). However, there were two major cons of the free version.

The biggest issue was in the free version you can only have a meeting for 40 minutes. If you are recording a program, you have to start a second meeting with your presenter and patrons which put an odd break in the program, and sometimes you lose patrons or presenters due to technical difficulties in starting a second meeting. We had both of these things happen. Fortunately, we were able to overcome the difficulties and finish the program, but it is an unfortunate issue with the free version that cannot be remedied.

The free version is fine for most programs if you can finish in 40 minutes or less, but for a major program like Attorney Lecture Series, I would certainly not recommend the free version. The recording issues alone make it difficult to work with on a regular basis. Second, security issues, while they did not arise for us, could cause allow unwanted viewers to access. Zoom does not seem to have an effective security measure for the free version and, if you have the login information, you can access the program at will. That being said, I still recommend it for programming as long as it is under 40 minutes in length given the ease of use of the application for patrons and presenters alike.

Since we could not pay for Zoom, we decided to expand our WebEx license. This took many months to get off the ground and we were forced to use the free version of Zoom until January 2021. The Library system expanded its licenses to 13. These new licenses included the Law Library. WebEx is harder to use from a presenter stand point, especially if you plan on sharing licenses. We have to make sure another branch or department has not scheduled a program and keep up with all logins for each license as they are all different. If you plan on having one license, be aware of whom you share it with at your institution as you cannot present more than one program at a time. For the patrons, WebEx is very easy to use, just like Zoom, and they have not had a problem with the transition. We continue to send the WebEx logins through our website to our patrons and they have been able to pick it up quickly as many were returning patrons. The recordings in WebEx cannot be enabled automatically, and in at least one instance, did not record the program even though it said it was recording. This might have been a bug that WebEx has since fixed, but it was an issue that day. WebEx is also more expensive to purchase yearly per license since we had to go with a higher plan because we needed more than 9 licenses. Zoom costs less per license regardless of the number of licenses. Finally, WebEx does seem to have better security features than the free Zoom, as you would expect with a paid subscription, including the requirement of a Room Number and Password and also the ability for the host to authenticate who enters the room instead of just entering the room information and joining without a reservation.



In conclusion, WebEx and Zoom are both an effective means of doing virtual programs. Zoom and WebEx are both easy to use both for patrons and presenters. Zoom, unfortunately, has a limit on the length of a recording in its free version plus some security issues. However, the lower cost can offset some of those issues. WebEx, while easy to use, is more expensive but provides a more stable experience. That being said, both applications were essential to our continuity of operations and connection with our patrons. We plan on doing some sort of hybrid once we resume normal operations. I hope that this discussion has provided a good understanding of both applications and their utility.