Truth, Justice and Information for All
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Useful Internet Sites and Articles

Rule 91a Explained

"Pros and Cons of Rule 91a Motions" *Texas Lawyer*, September 30, 2013

Texas Rule of Civil Procedure 91a became effective on March 31, 2013. In a recent article, attorney H. Victor Thomas addresses and analyzes the pros and cons of the rule from a defense perspective. Rule 91a provides for the dismissal of baseless causes of action. Mr. Thomas asserts that use of the rule requires some consideration and cautions defense counsel to weigh the advantages and disadvantages of using the rule against other available dismissal motions such as special exceptions or motions for summary judgment. The author names three common situations where Rule 91a would be most effective. These are: when a plaintiff has 1) pleaded a nonexistent cause of action; 2) failed to state a claim; or 3) pleaded admissions that preclude the plaintiff's recovery or establish an affirmative defense. One of the unique aspects of Rule 91a is what the author calls a "loser-pays provision." The rule states that the court awards the prevailing party all costs plus reasonable and necessary attorney fees incurred. Mr. Thomas reminds the reader that the respondent can avoid paying these costs by nonsuiting the cause of action three days prior to the hearing. With those considerations in mind, Mr. Thomas lays out the advantages of a Rule 91a motion. First, Rule 91a requires a quick disposition—within 45 days after filing the motion. Second, a quick dismissal may be beneficial if the suit is generating bad publicity or if a defendant is required to disclose the lawsuit as a potential liability in a public report. The third advantage is the amount of pressure a Rule 91a motion puts on a plaintiff to nonsuit the claim because of the risk of having to pay for the defendant's costs and fees. The final advantage according to the author is that by obtaining a ruling on a motion to dismiss, the party does not waive a special appearance or a motion to transfer venue. Despite these advantages, Mr. Thomas suggests that if defendants do not need a quick dismissal, it may be preferable to use a special exception or motion for summary judgment simply to avoid the risk of paying the plaintiff's court costs and attorney fees.

Making the Transition from a Paper Office to a Digital Office

"5 Steps for Replacing Boxes of Documents with an iPad" *Texas Lawyer*, October 14, 2013 and "The Case for a Tablet" *Texas Bar Journal*, October 2013

Attorney W. Mark Bennett is the author of a couple of articles designed to assist attorneys in making tablets a more integral part of their practices, whether the goal is going paperless or just using a tablet at trial or depositions. His article in the *Texas Bar Journal* provides the reader with a how-to guide for buying a tablet or iPad and several useful apps for attorneys, including note taking apps, research apps and apps that help with trial organization. While the note taking and research apps are a matter of preference, he recommends two apps that are necessary for use in trial. The first is TrialPad and the second is TranscriptPad. Among the most popular features of TrialPad is the capability to create exhibits in the app and to upload those exhibits directly into the case file. TranscriptPad allows attorneys to highlight and make notes on deposition transcripts and seamlessly integrates with TrialPad. Mr. Bennett's article in *Texas Lawyer* focuses on the use of a tablet during depositions. His article explains the process from start to finish and details what he considers to be the best apps and storage sites available. Copies of both of his articles are available in the library.

Copies of these articles are available in the library, or from the law librarian via email:

droberts@co.collin.tx.us

Spotlight on the Supremes

Effective October 1, 2013, Wallace Jefferson resigned his position as Texas Supreme Court Chief Justice. Jefferson was appointed to the Texas Supreme Court in 2001 and became Chief Justice in 2004. Taking his place is Justice Nathan L. Hecht of Austin, Texas. Justice Hecht was appointed to the Supreme Court of Texas in 1998 and has since authored more than 350 opinions.

On Friday, October 11, the Texas Supreme Court issued an advisory announcing a new program created by the Texas Supreme Court law clerks. The program is called "From Courtroom to Classroom" and has two separate curriculums, one for middle school students and one for high school students. The goal of the program is to teach students the day-to-day workings of the court as well as the importance of attorneys in resolving conflicts. A copy of the advisory and a link to the curriculum is available at http://www.supreme.courts.state.tx.us/pdf/school_project_101013.pdf.

Did You Know?

The Texas Uniform Trade Secrets Act (TUTSA) went into effect on September 1, 2013, making Texas one of several states that adopted a version of the Uniform Trade Secrets Act. TUTSA is basically a codification of common law but it does bring about a few changes. TUTSA expands the definition of a trade secret, it broadens the availability of injunctive relief for both actual and threatened misappropriation, and it now allows for the recovery of attorney's fees for the prevailing party.

Library Reminders

Computer Use—the library updated its policy concerning computer usage. All attorneys are now required to sign in for computer usage. Please stop at the front desk to sign in and the library staff will enter the log-in information.

Attorney IOU's— This is the second request for payment on outstanding IOU invoices. If these balances remain unpaid, the library will unfortunately no longer be able to offer this courtesy service.

Late Fees— There will now be a late fee of $0.25 per day on each item that is kept past its due date. Payment will need to be in the form of cash or a check. IOU's will not be accepted for late fees.

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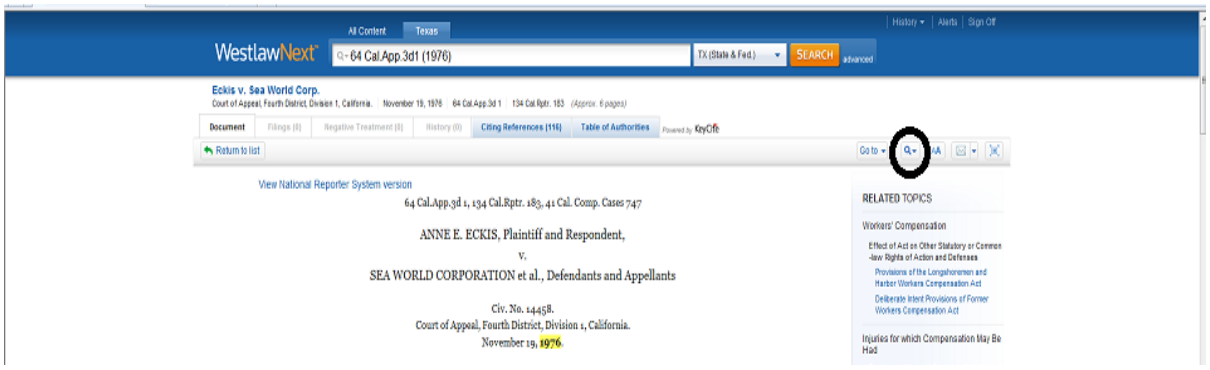
Hours of Operation:
Monday—Friday
8:00 am—5:00 pm

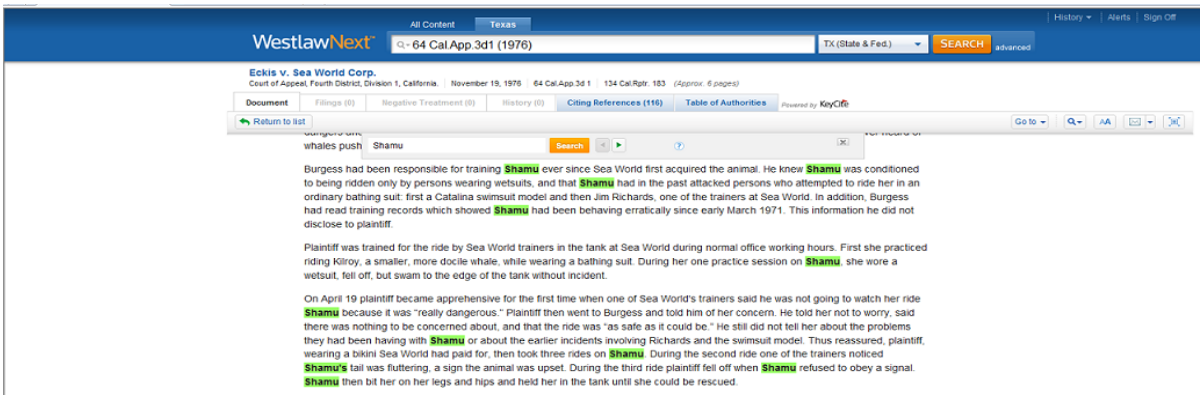
WestlawNext Tips

Jump Right to the Terms You Specify in a Long Document

This feature may save both time and frustration as it allows the user to jump between portions of the document that satisfy the user's query without having to read the entire document. Once the desired document is on the screen, click on the magnifying glass icon in the document toolbar, shown below.



After clicking on the magnifying glass, the user can enter a search term and hit "search." The results of the search will be highlighted in green for a quick scanning of the document.



Tech Tips: More Useful Apps and Law Blogs

- CitizenshipWorks—both a website and an app, is designed to assist green card holders in applying for citizenship. The free app is available in English and Spanish. Like the site, the app helps people determine whether they qualify for citizenship, find legal help if they need it, and study for the English and civics tests that are part of the naturalization process. The website is www.citizenshipworks.org.
- Courtroom Objections—a handy app based on the Federal Rules of Evidence and the Texas Rules of Evidence created by Texas attorney Anthony Shorter. Once the app is launched, the user can see lists of common objections to admissibility and to form. The app provides both actual rules and an explanation of the rules.
- Legal Solutions Blog by Thomson Reuters—the blog covers technology, practice insights, research, news and legal solutions. The blog is available at http://blog.legalsolutions.thomsonreuters.com/blog/.

The Law Library will be closed November 28-29 for Thanksgiving.

The Law Library will be closed December 24-25 for Christmas.

The Law Library will be closed January 1 for New Year's Day.

The Law Library will be closed January 20 for Martin Luther King Day.

New on the Shelf:

- 38th Advanced Criminal Law Course, 2013
- Texas Legal Practice Forms, Volumes 1-4, 2013-2014
- Texas Criminal Traffic Manual, 2013-2014
- O'Connor's Property Code Plus, 2013-2014
- O'Connor's CPRC Plus, 2013-2014
- O'Connor's Estates Code Plus, 2013-2014
- O'Connor's Criminal Codes Plus, 2013-2014
- O'Connor's Business & Commerce Code, 2013-2014

A Little Legal Humor

Best wishes for a happy holiday season!

Diane Gina Bethany