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Texas Transaction Guide: Legal Forms, Pub. #00727, updated three times per year—2018 releases included the following case law updates as well as the incorporation of over 250 forms from the previously published **Transactions in Turbulent Times**.

Business Entities (Chapters 1 – 35)

Relationship Between Minority and Majority Shareholders in Close Corporation. In *Herring Bancorp, Inc. v. Mikkelsen*, 529 S.W.3d 216, 227 (Tex. App.—Amarillo 2017, pet. filed), the court of appeals held that Texas law does not recognize a formal fiduciary duty between majority and minority shareholders in closely held corporations. See Ch. 11, Close Corporations, § 11.27[2][b].

Wills and Trusts (Chapters 40 – 51)

- Chapter 43A, “Limited, Conditional, and Future Interest Provisions,” has been updated to reflect current exemption maximums in the context of generation-skipping transfer taxes (see §§ 43A.26[2] and 43A.205[1]).
- Chapter 48, “Testamentary Trusts,” has been updated to reflect current exemption maximums in the context of generation-skipping transfer taxes (see § 48.26[3]).
- Chapter 51, “Life Insurance in Estate Planning,” has been updated to reflect amendments to Internal Revenue Code § 101 concerning gross income exclusion limits involving transfers of life insurance contracts (see § 51.25[4]).

Commercial Transactions (Chapters 55 – 67B)

- Mental Capacity to Contract. In *Estate of Riefler*, 540 S.W.3d 626, 636 (Tex. App.—Amarillo 2017, no pet. h.), the court of appeals held that to establish the mental capacity to contract, the evidence must show that, at the time of contracting, the person appreciated the effect of what he or she was doing and understood the nature and consequences of his or her acts and the business he or she was transacting. See Ch. 55, “Contractual Provisions,” § 55.20[2][b][ii].
- Interpreting Unambiguous Contract. In *URI, Inc. v. Kleberg Cty.*, 543 S.W.3d 755, 767 (Tex. 2018), the Texas Supreme Court held that extrinsic evidence may be used only to aid the understanding of an unambiguous contract’s language, not change it or create ambiguity. See Ch. 55, “Contractual Provisions,” § 55.25[2][h].
- Arbitrability by Nonsignatories Determined by Court. In *Jody James Farms, JV v. Altman Grp., Inc.*, 2018 Tex. LEXIS 405, *6 (Tex. 2018), the Texas Supreme Court held that courts, not arbitrators, must decide arbitrability with respect to nonsignatories to an arbitration agreement. See Ch. 55, “Contractual Provisions,” § 55.27[2][b].
- Vicarious Liability—Determining Whether Employee Acted Within Course and Scope of Employment. In *Painter v. Amerimex Drilling I, Ltd.*, 2018 Tex. LEXIS 310, **11-12 (Tex. 2018), the Texas Supreme Court held that the right to control work is relevant only to determining whether a worker is an employee or an independent contractor; once a worker is deemed an employee, the right to control is not relevant to a vicarious liability analysis. See Ch. 56, “Professional Services,” § 56.21[3].
- Recovery of Contingent Fees When Agreement Violates Statute of Frauds. In *Hill v. Shamoun & Norman, LLP*, 544 S.W.3d 724, 735 (Tex. 2018), the Texas Supreme Court held that Tex. Gov. Code § 82.065 does not preclude a law firm’s quantum meruit recovery for legal services performed under an unenforceable contingent fee agreement. See Ch. 56, “Professional Services,” § 56.32[4][b][ii].
- Mutual Intent to Contract May Be Inferred from Circumstances. In *Lindsey Construction v. Autonation Fin. Servs., LLC*, 541 S.W.3d 355, 363 (Tex. App.—Houston [14th Dist.] 2017, no pet. h.), the court of appeals held that in cases involving implied contracts, mutual intent is inferred from the circumstances, such as the parties’ communications, conduct and course of dealing. See Ch. 62, “Sale of Goods,” § 62.22[1].

Real Estate Transactions (Chapters 68 – 89A)

- Chapter 75, “Restrictions on Land Use,” has been updated to reflect new case law indicating that, with respect to grants of conservation easements, no charitable contribution tax deduction will be permitted where a donor has an expectation of receiving a substantial benefit (see § 75.245[1]).
- Chapter 77A, “Oil and Gas Operating Agreements,” has been updated to reflect new case law interpreting the definition of “partnership” in the context of Subsection K of the Internal Revenue Code (see § 77A.24).
- Chapter 86, “Real Estate Syndicates,” has been updated to reflect amendments to Internal Revenue Code § 496 adding a new ordering rule (see § 86.22[3]).

Personal Transactions (Chapters 90 – 106)

- Child Support. The Texas Supreme Court has held that neither physical custody nor legal guardianship is required for a parent to have standing to file a suit seeking child support for an adult disabled child under Family Code Section 154.303(a)(1). The mother of an adult disabled daughter had standing to seek child support from the child’s father even though she did not have physical custody of the daughter and was not her legal guardian [In Interest of C.J.N.-S., 540 S.W.3d 589, 590-593 (Tex. 2018)]. See Ch. 103, “Provisions for Spousal and Child Support,” § 103.21[5][c][i][B].

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