



Case Summaries May 15, 2026

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DECIDED CASES

Weldon v. Lilith Fund for Reprod. Equity, ___ S.W.3d ___, 2026 WL ___ (Tex. May 15, 2026) [24-0250]

The issue is whether the Texas Citizens Participation Act applies because the Lilith Fund’s declaratory judgment suit against Sadie Weldon is “based on” or “in response to” Weldon’s Rule 202 petition, which sought a pre-suit deposition of the Fund’s deputy director.

Weldon filed the Rule 202 petition to investigate potential violations of the Texas Heartbeat Act by the Fund. The Fund then sued Weldon, seeking a declaration that the Heartbeat Act is unconstitutional and an anti-suit injunction to prevent Weldon’s Rule 202 petition from proceeding. Weldon moved to dismiss the Fund’s suit under the TCPA. The trial court denied the motion and the court of appeals affirmed, holding that the TCPA does not apply because the Fund’s suit is not based on or in response to the Rule 202 petition.

The Supreme Court reversed. The Court held that the Fund’s suit is “based on” or “in response to” Weldon’s Rule 202 petition, a TCPA-protected activity that the Fund sought to enjoin. Because Weldon established that the TCPA applies to the Fund’s suit, the Court remanded the case to the court of appeals for consideration of the remaining issues under the TCPA.

Braxton Minerals III, LLC v. Bauer, ___ S.W.3d ___, 2026 WL ___ (Tex. May 15, 2026) [24-0438]

This appeal concerns whether a Texas court had jurisdiction over a suit seeking to compel defendants to convey mineral rights to properties located in another state.

Texans Bauer and Ashburn formed a company called BM2. Bauer, Ashburn, and EnerQuest formed an Oklahoma company called BM3. The parties agreed that BM3 would acquire mineral interests in Appalachia and that certain mineral rights held by BM2 would be conveyed to BM3. BM3 sued Bauer and BM2 in Texas, claiming that certain deeds purchased by BM3 incorrectly identified the grantee as BM2 instead of BM3. The trial court granted summary judgment for BM3, ordering Bauer

and BM2 to perform their contractual obligations, convey the disputed mineral rights and related royalties, and reform the incorrect deeds. The court of appeals reversed, holding that the gist or gravamen of the claim involved disputed ownership of foreign real property, a dispute over which a Texas court lacks jurisdiction.

The Supreme Court reversed. It reasoned that even though a Texas court lacks jurisdiction to render an *in rem* judgment establishing title to real property, the trial court had jurisdiction here because the suit sought an *in personam* judgment adjudicating the parties' rights against each other under an agreement. A suit binding a defendant to his legal obligation to convey out-of-state property is *in personam* and within a Texas court's jurisdiction. The Court disapproved of caselaw following a rule that turns on whether the gist or gravamen of the claim involves adjudication of title to foreign real estate.

In re Home Depot U.S.A., Inc., ___ S.W.3d ___, 2026 WL ___ (Tex. May 15, 2026) [25-0317]

The issue in this original proceeding is whether a motor carrier's customer owed a duty of care to a motorist killed in a collision with the carrier's tractor-trailer.

Werner Enterprises is a federally regulated nationwide commercial carrier. A Werner truck was hauling Home Depot's freight when the driver allegedly ran a red light and fatally struck a motorcyclist. In a wrongful-death and survival action, the decedent's parents and estate alleged that Home Depot negligently selected Werner to transport its goods. Home Depot filed a Rule 91a motion to dismiss, asserting that the plaintiffs' negligence claims fail as a matter of law because a mere shipper of goods owes no duty to third-party motorists under the pleaded facts. The trial court denied the motion, and the court of appeals summarily denied mandamus relief.

The Supreme Court conditionally granted mandamus relief directing the dismissal of the plaintiffs' claims against Home Depot. The Court held that Texas law generally imposes no duty on a passive shipper of goods to prevent the negligence of an independent, federally regulated motor carrier operating on public roadways. In so holding, the Court distinguished precedent recognizing a shipper's duty of care when the shipper has engaged in affirmative acts that create a danger on a public road. No such facts were alleged here; as pleaded, Home Depot's goods were onboard but uninvolved in the accident.

Wang v. Whittenburg, ___ S.W.3d ___, 2026 WL ___ (Tex. May 15, 2026) [25-0350]

The issue in this case is whether attorney's fees in prior litigation are recoverable as actual damages in a suit for breach of a settlement agreement.

Heirs to a ranch entered into two settlement agreements to end years of litigation over ownership of the ranch. Under the settlement agreements, the heirs would negotiate a partition in kind. If negotiations failed, a court-appointed commissioner could partition the ranch. When the heirs could not reach a partition agreement, the Angela Kate heirs filed partition proceedings in New Mexico pursuant to the settlement agreements. The John Burk heirs attempted to stop the partition, resulting in extended litigation.

Angela Kate sued John Burk in Texas for breaching the settlement agreements. Angela Kate sought actual damages for the attorney's fees she incurred in the New Mexico partition proceeding because of John Burk's attempt to block the partition. The trial court found that John Burk breached the settlement agreements but concluded Angela Kate's attorney's fees were not damages as a matter of law and issued a take-nothing judgment. The court of appeals affirmed.

The Supreme Court reversed. The Court held that attorney's fees in prior litigation can be recoverable damages for breach of a settlement agreement when the breach was not a basis for the prior litigation. Angela Kate incurred excess attorney's fees in the partition proceeding as the natural, probable, and foreseeable result of John Burk's breach of the settlement agreements, and that breach was not a basis for the partition proceeding. The Court also held that Angela Kate can recover attorney's fees incurred in this litigation because she recovered breach-of-contract damages. The Court rendered judgment awarding Angela Kate damages and remanded to the trial court to reconsider reasonable and necessary attorney's fees.

In re Abbott and ***In re State***, ___ S.W.3d ___, 2026 WL ___ (Tex. May 15, 2026) [25-0674, 25-0687]

The issue in these cases is whether the Supreme Court, in original quo warranto actions brought by the Governor and the Attorney General, can remove members of the House of Representatives for deliberately preventing a quorum.

During a special session, several dozen members of the House left the State to prevent a quorum needed to vote on redistricting legislation. The Governor, and later the Attorney General, brought quo warranto actions in the Supreme Court seeking removal of the House members from office. The House members voluntarily returned while the actions were pending, and the redistricting legislation became law.

The Court declined to exercise its discretionary jurisdiction over the petitions and denied them. The Court explained that these cases present fundamental questions about the allocation of powers among the branches of Texas government. The framers of the Texas Constitution entrusted the power to compel legislative attendance to the present members of each chamber, and, here, a quorum was restored in two weeks' time without judicial intervention. The Court declined to decide whether a judicial remedy would ever be available.

Justice Sullivan concurred, agreeing that the constitutional crisis passed too quickly for the Court to engage in factfinding that might have justified quo warranto relief. He further opined that the Court would have authority in a future case to remove quorum breakers from office.

Helena Chem. Co. v. Bales, ___ S.W.3d ___, 2026 WL ___ (Tex. May 15, 2026) (per curiam) [25-0812]

At issue in this case is whether the requirements for a permissive interlocutory appeal were met under Section 51.014(d) of the Texas Civil Practice and Remedies Code.

A group of farmers claimed that Helena Chemical Company damaged their crops through the aerial application of herbicide. The Court previously decided a case with similar facts but different farmers. In that case, it found that the farmers' experts raised no genuine issue of material fact to survive summary judgment. Helena argued that the farmers in this case offered the same expert testimony to prove the same claims. It therefore moved to strike the expert opinions and for a no-evidence summary judgment, arguing that the Court's precedent controlled. The trial court denied the motion for summary judgment, but it gave Helena permission to appeal on the question of whether the Court's precedent dictated that the testimony was unreliable as a matter of law.

The court of appeals denied permission to appeal. It reasoned that there is no "substantial ground for difference of opinion" on the controlling question of law, as required by Section 51.014(d)(1), when, as Helena argues, precedent directs the outcome. Helena petitioned the Court for review.

The Supreme Court reversed the decision of the court of appeals and remanded the case with directions to accept the permissive appeal. The Court held that Section 51.014(d)(1) is satisfied when there is a substantial ground for concluding that a trial-court ruling is at odds with binding precedent. In each case where an interlocutory appeal is permitted, the trial court will have answered some "controlling question of law." The trial court's answer should be treated as the product of a fair-minded jurist and used as the baseline for assessing whether there exists "a substantial ground for difference of opinion." When, as in this case, the trial court comes to a conclusion that it might have acted contrary to controlling precedent, the appellate court should take it at its word. Under such circumstances, there is a substantial ground for concluding that the trial court's answer is at odds with binding precedent and Section 51.014(d)(1) is satisfied.

RECENTLY GRANTED CASES

Leonard v. Dallas County, ___ S.W.3d ___, 2025 WL 2430775 (Tex. App.—Dallas 2025), *pet. granted* (May 1, 2026) [26-0128]

This case concerns the emergency exception to governmental liability under the Texas Tort Claims Act.

Leonard was driving in bumper-to-bumper traffic in the righthand lane of a Dallas area highway at rush hour. Dallas County courtesy patrol officer McDonald was behind him. As part of his duties, Officer McDonald patrolled highways throughout the county to look for road hazards and assist drivers in need. As he was traveling behind Leonard, McDonald spotted a stopped or stalled vehicle several lanes to his left. McDonald claims that he activated his emergency lights and started to make his way over to the stopped vehicle. While doing so, he rear-ended Leonard's vehicle, and Leonard sued.

The TTCA's waiver of immunity does not apply to a claim arising "from the action of an employee while responding to an emergency call or reacting to an emergency situation" if other statutory criteria are met. The County filed a plea to

the jurisdiction arguing that under this exception, it retained governmental immunity from Leonard's suit. The trial court granted the plea, but the court of appeals reversed. The panel majority reasoned that Leonard raised a fact issue about the exception's applicability by pointing to post-accident statements by McDonald in which he did not mention an emergency or stalled vehicle. One justice dissented, opining that Texas law requires the emergency exception to be construed broadly and that Leonard failed to carry its burden to negate its applicability.

The County's petition for review argues that the court of appeals narrowed the emergency exception by anchoring its analysis to the words used by McDonald in the wake of the accident, rather than the objective circumstances. The Supreme Court granted the petition.

San Patricio Cnty. Appraisal Dist. v. Devon Gas Servs., L.P. and ***San Patricio Cnty. Appraisal Dist. v. Gunvor USA LLC***, ___ S.W.3d ___, 2026 WL 59714 (Tex. App.—Corpus Christi—Edinburg 2026), *pets. granted and consolidated for oral argument* (May 1, 2026) [26-0153, 26-0157]

These cases concern whether oil stored in tanks in San Patricio County is exempt from ad valorem taxation under federal or state law.

Crude oil is delivered via pipeline from wells around the region to tanks in the County, where it is stored until transferred to an export terminal in Corpus Christi. For 2023, the San Patricio County Appraisal District appraised Devon's taxable property to include more than 219,000 barrels of stored oil, valued at over \$17 million, and it appraised Gunvor's taxable property to include more than 428,000 barrels of stored oil, valued at over \$38 million. After their protests were denied, both companies filed suits for judicial review. They argued that the oil is exempt from taxation under the Import–Export Clause of the U.S. Constitution, Article I, Section 10, which limits taxes a state can impose on imports or exports. The Texas Tax Code incorporates exemptions on ad valorem taxation imposed by federal law.

The trial court granted summary judgment for the companies, and the court of appeals affirmed. The District filed a petition for review in each case, arguing that the lower courts erred because the oil is not merely passing through Texas but is constantly present in substantial quantities, and has a substantial nexus to, the state. The Supreme Court granted the petitions and consolidated them for oral argument.