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Litigation Roundup: A \$1.2B ‘Revenge Porn’ Verdict, Texas’ Vision Care Law Draws Suit

AUGUST 14, 2023 | MICHELLE CASADY

In this edition of Litigation Roundup, a Houston jury awards a woman \$1.2B in a revenge porn case she brought against her ex-boyfriend, the state of Texas is facing another lawsuit over a new law set to go into effect Sept. 1, and McCathern teams up with civil rights lawyer Ben Crump in a suit against Harris County over its treatment of jailed individuals.

Have a development we should cover in the next Litigation Roundup? Please let us know at tblitigation@texaslawbook.net.

Harris County District Court

Victim in Revenge Porn Case Gets \$1.2B

A Harris County jury recently returned a \$1.2 billion verdict in favor of a Jane Doe who alleged an ex-boyfriend posted sexually explicit photos and videos of her online without her permission after they broke up.

Doe filed suit in April 2022, and according to court documents defendant Marques Jamal Jackson never hired an attorney or appeared pro se in the lawsuit, and he did not participate in discovery.

According to the lawsuit, the pair started dating in 2016 and moved to Chicago together that year after Jackson accepted a job there. The relationship ended after a “long and drawn out break up” in October 2021, and Doe moved back to Harris County.

Soon thereafter, Doe alleges Jackson created a public website with a Dropbox folder containing “intimate visual material” and sent links to Doe’s friends, family and coworkers.

The case was assigned to Harris County District Judge Rabeea Collier, who granted Doe’s motion for a default no-answer judgment as to liability in March.

Trial started Aug. 9 and the jury of 12 returned a unanimous verdict in favor of Doe the same day. The panel awarded Doe \$100 million for past mental anguish, \$100 million for future mental anguish, and \$1 billion in exemplary damages against Jackson.

Doe is represented by Bradford J. Gilde of Gilde Law Firm in Houston and Jacob G. Schiffer of Schiffer Law Firm.

The case number is 2022-20061.

Lawyer Says Former Boss is Retaliating After he Declined Partner Role

Houston lawyer Yaou Li has filed a lawsuit against his former supervising attorney, Fan Chen, alleging Chen has launched a retaliation campaign against him — including filing a bogus lawsuit — after he declined Chen’s partnership offer.

Li formerly worked at Mosaic Paradigm Law Group, which was founded by Chen, according to the lawsuit, and before that he worked with Chen at Nguyen and Chen, where Chen served as a partner.

“Chen eventually offered Li a position as an equity partner at Mosaic, but Li repeatedly declined the offer,” the lawsuit alleges. “Chen took offense and became angry with Li, and their disagreements led to the termination of Li’s employment at Mosaic.”

That’s when Li alleges Chen began pursuing a “personal vendetta” against him, which included filing a lawsuit in Harris County against Li, Li’s wife and Li’s solo practice accusing him of stealing clients. Li alleges that in an attempt to gather evidence against him in that lawsuit, Chen “deliberately hacked Li’s personal email account and downloaded emails from the account.”

The lawsuit was filed Aug. 4 and has been assigned to Harris County District Court Judge Michael Gomez.

Li is represented by Zach Wolfe of Zach Wolfe Law Firm in Houston.

Chen had not retained counsel as of Monday.

The case number is 2023-50215.

Southern District of Texas

McCathern, Ben Crump Sue Harris County Over Jail Deaths, Injuries

Noted civil rights attorney Benjamin L. Crump of Florida has teamed up with Paul Grinke of McCathern in Dallas to bring a lawsuit against Harris County over a series of injuries and deaths that have taken place at the county jail since 2021.

More than two dozen plaintiffs are named in the lawsuit that was filed Aug. 7 and has been assigned to U.S. District Judge Keith P. Ellison. The plaintiffs are either former detainees who were injured at the jail or the family members of detainees who died in custody.

“The Harris County Jail is plastered with a history of men and women whose lives are compromised by the actions and the deliberate indifference of the detention officers and staff who are tasked with the duty to protect them,” the lawsuit alleges. “A place that was meant for temporary confinement for individuals not convicted of a crime has become a place of torment and punishment. In the past several years, more people have been killed in the Harris County Jail than have been executed on death row in all of Texas.”

The lawsuit alleges County Sheriff Ed Gonzalez is responsible for the “pervasive pattern and culture of death which has claimed over 50 lives of pre-trial detainees since 2021.” The plaintiffs allege jailers routinely use excessive force, subject detainees to beatings and deny inmates medical care.

“Statistics show that for the past three years, the Harris County Jail has had more assaults within the Jail than all 251 other Texas county jails combined,” the suit alleges. “Additionally, the Harris County Jail accounted for 51% of all officer uses of force in all of Texas.”

Counsel for Harris County had not filed an appearance as of Monday.

The case number is 4:23-cv-02886.

Ex-A&M Liberal Arts Chair Says His Removal was Retaliation

Joseph Ura, who was formerly the chair of the liberal arts program at Texas A&M University at Qatar, alleges in a new lawsuit he was removed from his position after reporting concerns that the school’s dean was discriminating against female colleagues based on their sex.

Ura alleges his concerns were based on actions Dean Cesar Malavé undertook to remove two women from the school’s faculty: Sheela Athreya, who was the only woman with a tenured faculty appointment, and Brittany Bounds, who served as co-chair of the Women’s Faculty Forum, which advocated for women on campus, according to the lawsuit.

“Dean Malavé proposed not renewing Dr. Bounds’s appointment because of complaints from students and the Qatar Foundation, which is the principal source of funding for the campus, about Dr. Bounds’ support for Israel and her past military service,” the suit alleges. “Dr. Ura reported to Texas A&M administration multiple times that he believed Dean Malavé was engaging in sex discrimination and veteran-status discrimination.”

Ura alleges he wrote to the university’s office of ethics and compliance in September 2021, and Malavé went to College Station for a meeting with administration the following month. Soon after he returned, Ura alleges Malavé asked him to resign, and when he refused he removed him from the program chair position.

“Texas A&M then attempted to cover up and justify Dean Malavé’s actions through a hastily thrown together reorganization plan, false statements about Dr. Ura’s job performance, and a shoddy internal investigation,” according to the lawsuit. “The Equal Employment Opportunity Commission issued a cause finding against Texas A&M, stating that the evidence shows the University retaliated.”

The lawsuit was filed Aug. 9 and has been assigned to U.S. District Judge Andrew Hanen.

Ura is represented by Colin Walsh of Wiley Walsh in Austin.

Counsel for A&M had not filed an appearance as of Monday.

The case number is 4:23-cv-02934.

Western District of Texas

Native Americans Retain Jones Day in Brackenridge Park Fight

Members of the Lipan-Apache Native American Church are suing the city of San Antonio to stop what they call the desecration of a “holy place” inside the city’s 343-acre Brackenridge Park.

The members of the church told the court they believe the park is “the site of the creation of life in this region,” and serves as home to the double-crested cormorant, which nests near the river in the park. The bird’s presence in the park, they allege, “is essential for plaintiffs’ religious practice.”

“Yet the city is pursuing a plan that is driving the birds away, destroying trees and other habitat, and compromising the park’s spiritual ecology, all of which is interfering with plaintiffs’ ability to practice their religion,” the suit alleges. “On top of that, the city is preventing plaintiffs from accessing their sacred area within the park to worship according to their beliefs. On a half-dozen occasions, plaintiffs asked the city to modify its renovation plans to preserve the ecology of the park and plaintiffs’ ability to worship within it, but the city rejected those requests.”

The lawsuit was filed Aug. 9 and has been assigned to U.S. District Judge Fred Biery. On Friday, Judge Biery entered an order denying the plaintiffs’ motion for a temporary restraining order and preliminary injunction, noting the city had raised “significant public safety issues” in its response to the motion.

“Based on the arguments and authorities presented at this time and a review of the affidavits presented, the court does not find that plaintiff has sufficiently shown immediate and irreparable harm in light of significant public safety issues raised by the defendant,” Judge Biery wrote.

The plaintiffs are represented by [Mark W. Rasmussen](#) and [Jonathan Gunn](#) of Jones Day.

San Antonio is represented by Fred Jones of Langley & Banack.

The case number is 5:23-cv-00977.

Northern District of Texas

Lawmakers Sued Over New Vision Care Law

A new Texas law has drawn a federal lawsuit from a handful of vision care companies alleging H.B. 1696, set to take effect Sept. 1, violates the First Amendment and their equal protection rights.

“The statute stops dead in its tracks a market-based mechanism for decreasing the cost of vision care for Texans by suppressing truthful, non-controversial speech that facilitates the provision of cost-effective care to Texans who pay for and participate in vision insurance and care,” the lawsuit alleges.

The entities filing suit — Healthy Vision Association, National Association of Vision Care Plans, Vision Service Plan Insurance and Visionworks of America — allege the new law restricts their ability to “communicate the cost of vision care at competing optometrists to their insureds and prevents patients from receiving information that is important to their health care decisions.”

The case was filed Aug. 4 and has been assigned to Senior U.S. District Judge Sam R. Cummings.

“The real purpose of H.B. 1696 is obvious: insulating independent optometrists from the competition of an integrated business model, and keeping patients ignorant of financial and other benefits of pursuing lawful, alternate care providers,” the suit alleges. “By keeping consumers in ignorance, H.B. 1696 will only serve to ‘protect’ them from making the best-informed and most financially advantageous decisions regarding their vision care.”

Healthy Vision Association is represented by [John W. Petrelli III](#) and [Catherine Lynn Eschbach](#) of Morgan, Lewis & Bockius.

National Association of Vision Care Plans is represented by Errol J. King Jr. and Blake A. Bailey of Phelps Dunbar.

Vision Service Plan Insurance is represented by [Christopher D. Kratochvil](#) and [David J. Schenck](#) of Dykema Gossett.

Visionworks of America is represented by [Aaron M. Streett](#) and [Gavin Villareal](#) of Baker Botts.

Counsel for the government had not filed an appearance as of Monday.

The case number is 5:23-cv-00167.

Texas Supreme Court

H-E-B, Sanitizer Co. Settle Biz Disparagement Dispute

A settlement has been reached in a business disparagement and defamation lawsuit Maverick International brought against grocer HEB, and the Texas Supreme Court signed off on the deal Aug. 11.

H-E-B filed a petition for review with the Texas Supreme Court in February, following an October ruling from the Ninth Court of Appeals in Beaumont declining to dismiss the lawsuit under the Texas Citizens Participation Act.

The fight stems from a sourced deal to purchase six million canisters of Maverick’s disinfecting wipes during the height of the pandemic, according to the opinion. H-E-B refused to purchase the entirety of the order after alleging Maverick breached the deal by failing to meet delivery deadlines and by making misrepresentations about Environmental Protection Agency-mandated labeling requirements on the product.

Maverick then filed a breach of contract lawsuit, and expanded it to add claims for business disparagement and defamation after H-E-B representatives made certain statements in a press release sent to a San Antonio Express-News reporter who was writing about the dispute.

H-E-B is represented by [Michael W. O’Donnell](#), [Aimee Vidaurri](#) and [Mark Emerj](#) of Norton Rose Fulbright.

Maverick is represented by Glen W. Morgan and John Werner of Reaud, Morgan, & Quinn.

The case number is 22-1050.

U.S. Court of Appeals for the Fifth Circuit

Once Again, Panel Reverses Judge Hughes’ Discovery Restrictions

A Fifth Circuit panel issued an opinion Aug. 7 once again reversing a ruling by Senior U.S. District Judge Lynn Hughes that had denied a woman bringing a slip-and-fall lawsuit against Fiesta Mart an opportunity to “conduct sufficient discovery.”

“This slip-and-fall litigation never got off the ground,” the panel wrote, noting summary judgment was granted in favor of Fiesta. “This follows a pattern from this particular district court.”

Carmen Ruiz slipped on a puddle of water while shopping in the store in March 2020, according to the lawsuit, and she filed suit in September 2021.

Judge Hughes entered an order barring the parties from conducting any discovery without court approval and threatening sanctions for violations. Ruiz was not allowed to request written discovery or to subpoena third-party documents, and she was only permitted to take two depositions before Fiesta moved for summary judgement in July 2022.

“The district court’s memorandum opinion discounted Ruiz’s testimony that the freezer was leaking as ‘self-serving testimony’ that failed to create a genuine dispute of fact,” the panel wrote. “The court also stated that ‘Ruiz spend[s] most of her response yelling generalized legal principles rather than responding to the motion itself. Her goal is to show a genuine dispute of material fact, not present a law review article on slip-and-fall theories. ... If Ruiz would have spent time arguing the facts rather than pontificating, her response would have been more persuasive.’” The district court concluded that Ruiz had not provided evidence that the freezer was leaking or that Fiesta Mart had notice of the water or the jagged metal that injured her foot.”

In reversing Judge Hughes, the panel wrote that Ruiz’ discovery attempts were “suffocated by the district court’s overly restricted discovery orders.”

“We have repeatedly admonished the district court for its undue discovery restrictions,” the panel held.

Judges Stuart Kyle Duncan and Cory T. Wilson sat on the panel, alongside Eastern District of Texas Judge Robert W. Schroeder, who sat by designation.

Ruiz is represented by Jeffrey Todd of Todd Law Group in Houston.

Fiesta is represented by Konor Cormier and Maryalve Walsh Cox of MehaffyWeber.

The case number is 22-20489.

Michelle Casady

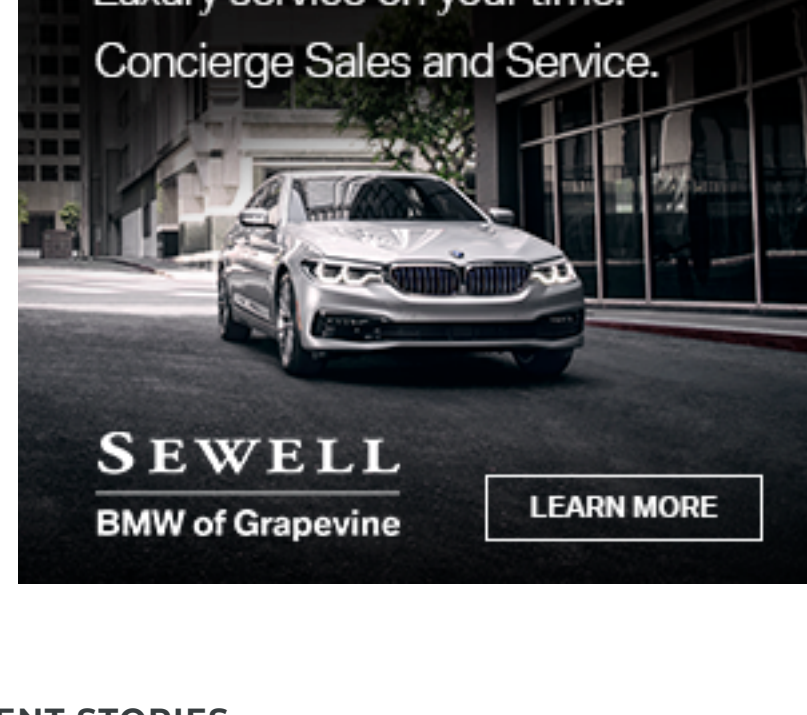
Michelle Casady is based in Houston and covers litigation and appeals — including trials, breaking news and industry trends — for The Texas Lawbook.

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