# Specialized Topics in Texas Legal Research

by

### Matthew C. Cordon

Associate Professor of Law and Associate Director of the Law Library, Baylor Law School

and

### Brandon D. Quarles

Professor of Law and Director of the Law Library, Baylor Law School

> William S. Hein & Co., Inc. Buffalo, New York 2005

Library of Congress Cataloging in Publication Data

Cordon, Matthew C.

Specialized topics in Texas legal research  $\slash$  by Matthew C. Cordon & Brandon D. Quarles.

p. cm.

Includes bibliographical references and index. ISBN 0-8377-3107-0 (cloth: alk. paper)

1. Legal research—Texas. I. Quarles, Brandon D. II. Title.

KFT1275.C67 2004 340'.072'0764—dc22

2004054310

© 2005 by William S. Hein & Co., Inc. All rights reserved.

Printed in the United States of America



This volume is printed on acid-free paper by William S. Hein & Co., Inc.

# TABLE OF CONTENTS



<b>D</b> EDICATION
Supplementation xii
Preface
Chapter One. CIVIL LITIGATION AND APPEALS RESEARCH
§ I. NATURE OF LEGAL RESEARCH IN CIVIL LITIGATION AND
APPEALS
A. Role of Legal Research in Preparing for
Litigation and Appeals
B. Planning for Costs Associated with Legal
Research
C. Researching Litigation Issues vs. Researching
Transactional Issues
§ II. USING PRACTICE-ORIENTED MATERIALS IN CIVIL
LITIGATION AND APPEALS
A. Comparing Practice-Oriented Resources with
Other Materials 6
B. Procedural Guides and Checklists
C. Forms and Form Templates
D. Electronic Resources
§ III. Primary Authority in Civil Litigation and
APPEALS 8
A. Court Rules 8
B. Statutory and Constitutional Provisions
C. Other Types of Primary Authority

§ IV. RESEARCH STRATEGIES FOR CIVIL LITIGATION AND	
APPEALS	14
A. Identify, Narrow, and Frame Issues in Order to	
Identify Research Needs	15
B. Map Out Research Needs in Advance	
C. Take Advantage of Comprehensive Resources at	
the Beginning of the Research Process	16
D. Use More Focused Sources When Resolving	
More Difficult Issues	16
E. Take Advantage of the Array of Resources	16
F. Do Not Misuse Forms	17
G. Keep an Eye on Costs	17
§ V. COMPREHENSIVE RESOURCES FOR CIVIL LITIGATION AND	
APPEALS PRACTICE	17
A. Texas Resources	17
B. Federal Resources	19
C. Resources with a National or General Scope	19
§ VI. Pretrial and Discovery Resources	20
A. Texas Resources	20
B. Federal Resources	23
C. Resources with a National or General Scope	
§ VII. CIVIL TRIAL AND APPEALS RESOURCES	25
A. Texas Resources	25
B. Federal Resources	28
C. Resources with a National or General Scope	29
§ VIII. EVIDENCE RESOURCES	30
A. Texas Resources	30
B. Federal Resources	
C. Resources with a National or General Scope	35
Chapter Two. Criminal Law and Procedure Research	
§ I. NATURE OF RESEARCH IN CRIMINAL LAW AND	
Procedure	37
§ II. RESEARCH IN CONSTITUTIONAL CRIMINAL PROCEDURE	38
A. Constitutional Provisions Relevant to Criminal	
Procedure	38
B. Resources for the U.S. Constitution	45
C. Resources for the Texas Constitution	48

Table of Contents vi	i
§ III. COURT AND LEGISLATIVE RULES GOVERNING THE	
CRIMINAL PROCESS	)
A. The Criminal Process and Rules Governing	
Criminal Procedure 50	)
B. Resources for Criminal Court Rules	3
§ IV. STATUTORY RESEARCH IN CRIMINAL LAW	1
A. Substantive Criminal Law	1
B. Resources for the Texas Penal Code 58	3
C. Resources for Federal Criminal Laws	)
D. Resources for the Model Penal Code and ABA	
Criminal Justice Standards 61	l
E. White Collar Crime	l
F. Juvenile Law 62	2
§ V. Rules of Evidence	3
A. Development of the Federal and Texas Rules of	
Evidence	3

§ VI. RULES OF APPELLATE PROCEDURE	68
A. Application of the Rules of Appellate Procedure	
in Criminal Cases	68
B. Resources for the Rules of Appellate Procedure	70
§ VII. SENTENCING	70
A. Sentencing Provisions in State and Federal Law	70
B. Resources for Sentencing Guidelines	72
§ VIII. SELECT TREATISES AND PRACTICE GUIDES ON	
Criminal Law and Procedure	74
A. Resources on Texas Criminal Law and	
Procedure	75
B. Resources on Federal Criminal Law and	
Procedure	77
C. Resources on Criminal Law and Procedure with	
National Scope	78
Chapter Three. Business and Commercial Law Research	
§ I. Introduction	81
A. Business and Commercial Research in Litigation	

and Transactional Practice . . . . . . . . . . . . . . . . . 81

B. Nature of Business and Commercial Law	
Research	82
§ II. COMMERCIAL LAW AND THE LAW GOVERNING	
CONTRACTS	86
A. Distinguishing Commercial Law and Contract	
Law	86
B. Contract Law	86
C. Uniform Commercial Code	88
D. Resources for the U.C.C.	
E. Resources for the Texas U.C.C.	94
F. U.C.C. Drafts	94
G. Locating Case Law Interpreting the U.C.C.	94
H. U.C.C. Forms and Filing Information	
I. Treatises and Practice-Oriented Materials	
§ III. BUSINESS ASSOCIATIONS	99
A. Introduction	99
B. Uniform Laws, Model Acts, and Similar Works	
Related to Business Associations	
C. Texas Business Organizations Code	
D. Treatises and Practice Guides	04
§ IV. TEXAS PRACTICE-ORIENTED MATERIALS ON BUSINESS	
AND COMMERCIAL LAW 10	05
Chapter Four. FAMILY LAW RESEARCH	
§ I. Introduction	09
§ II. TEXAS FAMILY CODE	10
A. Codification and Recodification of the Texas	
Family Code	10
B. Provisions of the Texas Family Code	11
C. Resources for the Texas Family Code	14
§ III. OTHER TEXAS LAWS AFFECTING FAMILY	
RELATIONSHIPS	15
§ IV. FEDERAL LAW AND UNIFORM ACTS RELATED TO	
Family Law 1	16
A. Federal Laws Related to Family Law	16
B. Uniform Laws and Compacts Related to Family	
Law 1	18
8 V. TREATISES, PRACTICE GLUDES, AND OTHER RESOURCES. 12	21

Chapter Five. Estate Planning, Probate, and Trusts Research	
§ I. Introduction	9
§ II. Texas Probate Code	
A. Development of the Texas Probate Code	
B. Provisions of the Texas Probate Code	
C. Resources for the Texas Probate Code	
§ III. TEXAS TRUST CODE	
§ IV. OTHER TEXAS LAWS AFFECTING ESTATE PLANNING,	
PROBATE, AND TRUSTS	0
A. Texas Constitution	
B. Texas Civil Practice and Remedies Code	
C. Texas Family Code	
D. Texas Property Code	
E. Additional Authority	
§ V. FEDERAL LAW AND UNIFORM ACTS RELATED TO ESTATE	
PLANNING, PROBATE, AND TRUSTS	6
A. Federal Laws Affecting Estate Planning and	
Trusts	6
B. Uniform Laws and Restatements Related to	
Estate Planning and Probate	7
§ VI. Treatises, Practice Guides, and Other Resources 14	12
Chapter Six. Consumer Law Research	
§ I. Introduction	;1
§ II. COMMON AREAS OF RESEARCH IN CONSUMER LAW 15	
A. Deceptive Trade Practices and Unfair Conduct	
B. Warranties	
C. Lemon Laws	
D. Construction	6
E. Insurance	6
F. Consumer Credit	6
G. Fair Debt Collection	57
H. Usury	8
§ III. RESOURCES FOR PRIMARY AUTHORITY	8
§ IV. Treatises, Practice Guides, and Other Resources 15	;9
Appendix A. Texas Practice Materials: A Selective Annotated Bibliography	
§ I. Introduction	55

§ II. GENERAL PUBLICATIONS
A. Sources for the Texas Constitution 166
B. Statutory Sources
C. Session Laws
D. Legislation and Legislative Information 173
E. Municipal and Other Local Government Codes 173
F. Case Reports
G. Digests and Indexes
H. Citators
I. Court Rules
J. Briefs and Records
K. Administrative Materials
L. Attorney General Opinions
M. Professional Responsibility
N. Directories
§ III. Periodicals
A. General
B. Topical
§ IV. PRACTICE TREATISES AND MATERIALS
A. General/Comprehensive Sources
B. Subject-Specific Sources
Appendix B. Select Listing of State and National Legal
ASSOCIATIONS
§ I. GENERAL BAR AND OTHER LEGAL ASSOCIATIONS 203
§ II. TRIAL AND APPELLATE LAWYERS
§ III. Defense Lawyers
§ IV. Criminal Justice
§ V. FAMILY LAW
§ VI. Business and Commercial Law
§ VII. ESTATE PLANNING AND PROBATE
§ VIII. CONSUMER LAW
Index 211

## **D**EDICATION



Matthew C. Cordon dedicates this book to Jennifer, Chandler, and Madelynne.

\* \* \*

Brandon D. Quarles dedicates this book to his family—Debbie, Ashtyn, and Corban.

### **SUPPLEMENTATION**



The authors of this text provide periodic revisions and updates at the following Web address:

<a href="http://law.baylor.edu/library/sttlr">http://law.baylor.edu/library/sttlr</a>

#### **PREFACE**



In August 2003, the authors of this text completed a treatise entitled *Legal Research for the Texas Practitioner*, which is intended to provide practical guidance for law students, attorneys, and others who conduct legal research in Texas. The previous book covers resources and research processes on both a basic and an advanced level, including discussions of jury instructions, briefs and records, civil jury verdicts and settlements, and attorneys general opinions. However, the scope of the book did not permit the authors to include information about many of the subject-specific resources available to Texas practitioners.

The authors produced Specialized Topics in Texas Legal Research to complement the material in Legal Research for the Texas Practitioner. This text focuses on six specific topics of legal research in Texas: civil litigation and appeals; criminal law and procedure; business and commercial law; family law; estate planning and probate; and consumer law. Two appendices provide the following: (1) a reprint of Texas Practice Materials: A Selective Annotated Bibliography, which will appear as a chapter in State Practice Materials: Annotated Bibliographies (Frank G. Houdek ed. 2002); and (2) a select listing of state and national legal associations. Each chapter in this text provides an annotated bibliography of resources related to the respective topic, in addition to a discussion of the nature of the authorities that are pertinent to the topic. The authors have based much of the content of Specialized Topics in Texas Legal Research on instructional materials prepared for courses in Legal Analysis, Research

and Communications, and Advanced Legal Research at Baylor Law School.

The authors hold Juris Doctor and Master of Library Science degrees, and both are members of the American Bar Association, State Bar of Texas, McLennan County Bar Association, American Association of Law Libraries, and Southwestern Association of Law Libraries.

The authors would like to extend their appreciation and thanks to the following individuals for their assistance during the drafting of this book: Bill Haberl, Rita Cypert, Susan Kendrick, and Linda McGennis of the Sheridan and John Eddie Williams Legal Research and Technology Center at Baylor Law School; and Rick Sowell and Ricky Lovecky of the Information Technology Department at Baylor Law School. The authors would also like to express special gratitude to Dean Brad Toben, Associate Dean Leah Jackson, and the faculty and staff at Baylor Law School for their continued encouragement, cooperation, and generous endorsements.

Matthew C. Cordon (e-mail: Matthew Cordon@baylor.edu)

Brandon D. Quarles (e-mail: Brandon\_Quarles@baylor.edu)