

Reasons for Reversal in the Texas Court of Appeals

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PRACTICES Appellate

"It is a capital mistake to theorize before one has data." - Sherlock Holmes

As Sherlock Holmes reminds us, it is a mistake to theorize before one has data. Detectives know this. Scientists know this. Lawyers know this too, but even in the absence of data, they frequently are called upon to theorize about reasons for reversal in the Texas courts of appeals. A trial lawyer must theorize about reasons for reversal when advising a client whether to accept a post-judgment settlement offer or pursue an expensive appeal. An appellate lawyer must theorize about reasons for reversal when narrowing the focus of an appeal and selecting the arguments to emphasize in the brief. And it is not only lawyers, but also their clients and the public as a whole, who theorize about reasons for reversal in the Texas courts of appeals.

How often do the courts of appeals reverse judgments entered on jury verdicts for plaintiffs in personal injury cases? Are these judgments reversed most often because of procedural errors occurring at trial, or because the evidence is legally or factually insufficient? Do different courts of appeals reverse different types of cases for different reasons? These questions cannot be answered solely from personal experience, war stories, observations by judges at continuing legal education programs, or lore passed down through generations of lawyers. Answering these questions requires data.

This article provides an update to a previous study on reasons for reversal in the Texas Court of Appeals.

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