

Summary Judgments in Texas

April 4, 2006 Lynne Liberato

PRACTICES Appellate

I. INTRODUCTION

Texas Rule of Civil Procedure 166a, which governs summary judgment practice, permits a party to obtain a prompt disposition of a case involving “patently unmeritorious claims and untenable defenses.” The rule provides a means of summarily terminating a case when a question of law is involved and no genuine issue as to any material fact exists.

When it was adopted in 1950, the purpose of the rule was, and remains, to eliminate delay and expense. Motions for summary judgment or partial summary judgment are used to win cases, obtain discovery, narrow issues, educate the judge about the case, and determine an opponent’s strategy.

Rule 166a is not intended to deprive a litigant of a full hearing on the merits of any fact issue. If the nonmovant raises a fact issue, the case should proceed to trial.

Summary judgment practice is a technical procedure. This article examines the procedural and substantive aspects of obtaining, opposing, and appealing a summary judgment, reviews types of cases amenable to summary judgment, and, finally, provides an overview of federal summary judgment practice.

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