

Summary Judgments in Texas

December 31, 2002 Lynne Liberato

PRACTICES Appellate

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

On September 1, 1997, Texas experienced a major change in summary judgment practice with the advent of no-evidence summary judgments. In other words, the party without the burden of proof at trial (usually the defendant), without having to produce any evidence at all, may move for summary judgment on the basis that the respondent (usually the plaintiff) has no evidence to support an element of its claim (or defense). Since that time, there has been considerable case law addressing no-evidence summary judgments.

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