

Texas Personal Injury Handbook

2015 Edition

NICK ROBERTS



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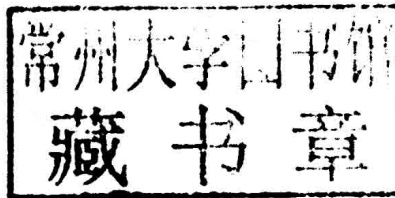
TEXAS PERSONAL INJURY HANDBOOK

NICK ROBERTS

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Nick Roberts is a noted author and attorney who has been practicing law in Austin since 1985. Mr. Roberts wrote the Texas Personal Injury Guide and Texas Personal Injury Handbook, a comprehensive resource for insurance and legal professionals since 1991.

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§ 1.01 Purpose of the Handbook

This publication provides insurance professionals, legal assistants, attorneys, and others in the field of personal injury litigation, an accessible and authoritative “one-stop” handbook on personal injury cases. Case law, statutes, and policies concerning a variety of different subjects have been assembled into one source. The Handbook focuses exclusively on Texas law.

The Handbook can be used in a number of different ways. Insurance professionals may use the Handbook in evaluating personal injury claims, and determining coverage. It also may be used as a portable basic reference book by attorneys and paralegals engaged in the prosecution or defense of personal injury actions.

Corporate counsel and others who may potentially be involved in evaluating personal injury claims of employees or third parties will also find the Handbook to be an easy-to-use, compact desk reference.

The Handbook may be used by law students as a study guide for torts and insurance-related topics.

§ 1.02 Organization of the Handbook

[1] In General

The text of the Texas Personal Injury Handbook is divided into Parts I through VI, as follows:

- Part I Guide to Personal Injury Claims
- Part II Sample Insurance Policies
- Part III Selected Texas Code Provisions
- Part IV Glossary of Medical Terms
- Part V Table of Cases (print edition only)
- Part VI Index (print and CD-ROM editions)

[2] Guide to Personal Injury Claims

Part I of the Handbook, Guide to Personal Injury Claims, includes chapters that cover current Texas law on common personal injury and insurance law topics, such as Premises Liability [Chapter 7] and Uninsured Motorist Claims [Chapter 10]. The Handbook also covers remedies, including Punitive Damages [Chapter 4], and Property Damages [Chapter 8]. Each chapter begins with a Synopsis, which is an outline of the sections and subsections into which the chapter is divided.

The chapters include the following textual features:

QUICK REFERENCES: This section, located at the beginning of the scope section in each chapter, highlights seminal cases, statutes, and other reference sources related to the covered topic.

Case Examples: In addition to concise statements of “black letter” law, each chapter contains numerous case examples that illustrate important rules of law in the context of particular factual patterns.

Cross-References to Other Texas Titles: Cross-references to TEXAS TORTS AND REMEDIES (Matthew Bender) and DORSANEO’S TEXAS LITIGATION GUIDE (Matthew Bender) have been added throughout the Handbook to help readers find further discussion, additional topics, and forms of pleadings for particular causes of action. When purchased on CD-ROM or online, as part of a personal injury or litigation package, these cross-references function as hypertext links.

[3] Coverage of Insurance Issues, Sample Policies

The Handbook includes extensive coverage of insurance-related issues, including chapters on Bad Faith [Chapter 2], Personal Injury Protection [Chapter 6], and

Uninsured Motorist Claims [Chapter 10] with up-to-date case citations. The Handbook also includes the following specimen policies and endorsements in Part II:

- Texas Personal Auto Policy
- Texas Homeowners Policy—Form A
- Texas Homeowners Policy—Form B
- Texas Homeowners Policy—Form C
- Texas Homeowners Tenant Policy—Form B
- Texas Homeowners Tenant Policy—Form C
- Texas Homeowners Condominium Policy—Form B
- Texas Homeowners Condominium Policy—Form C

The policies selected are those most often consulted by insurance professionals. In addition to reproducing the entire policies, endorsements are included.

[4] Selected Texas Code Provisions

Selected Texas Code Provisions are included in Part III of the Handbook. Common provisions, relating to personal injury, insurance, and selected workers' compensation issues have been included in the Handbook for easy reference and have been updated to include the 2003 legislative amendments.

[5] Glossary of Medical Terms

Part IV of the Handbook contains a medical glossary, medical abbreviations, prefixes, and suffixes to assist persons who review and interpret medical records.

§ 1.03 How to Research a Problem

[1] Index

Go to the Index located in Part VI at the end of the Handbook and find a topic listing that relates to the problem. For example, if the problem concerns exclusions in an uninsured motorist policy, look under the listing "Uninsured and Underinsured Motorist Coverage," and scroll through the sub-headings until you find "Exclusions From Policy." Each listing provides the section or subsection numbers of the text where that topic is discussed. Refer to those sections or subsections.

NOTE: All chapters, code provisions, and sample policies are indexed. Therefore, a listing such as "Uninsured and Underinsured Motorist Coverage" in the index will yield chapter sections, code provisions, and insurance policies that address this issue.

[2] Table of Contents/Synopsis

Go to the complete Table of Contents at the front of the Handbook and scan the chapter listings for chapters that may relate to the problem. Scan the synopsis of each chapter for sections and subsections that may relate to the problem. Refer to those sections or subsections. For example, if the problem involves measuring damages to personal property with sentimental value, scanning the complete Table of Contents yields one chapter that involves this topic: Chapter 8, Property Damages. Scanning the

synopsis of Chapter 8 yields the following sections: § 8.02 on damage to personal property, § 8.03 on damage to personal household items, and § 8.05 on various factors affecting the measure of damages to personal property, including § 8.05[1] on valuing items of sentimental value.

[3] Finding Cases

Go to the Table of Cases located in Part V. The cases are listed in alphabetical order. Each listing provides the sections or subsections in the text where the case is discussed.

[4] Finding Statutes

Go to Part III, Selected Texas Code Provisions. Part III begins with a synopsis that lists all included codes.

[5] Finding Further Discussion and Forms

The Handbook is designed as a portable basic reference for common personal injury issues. More detailed discussion on several of the topics included in the Handbook can be found in TEXAS TORTS AND REMEDIES (Matthew Bender) and Dorsaneo's TEXAS LITIGATION GUIDE (Matthew Bender). In addition, forms of pleading for all causes of action in the Handbook can be found in the TEXAS LITIGATION GUIDE.

Additional material on a topic is indicated in the Quick Reference box, located in the Scope section of each chapter, and by cross-references located after each main section heading.

For example, in Ch. 2, *Bad Faith*, the Quick References box includes references to Dorsaneo's TEXAS LITIGATION GUIDE, Ch. 345, *Insurer's Duties of Good Faith and Fair Dealing*, §§ 345.100 and 345.101. These sections include a form for adding a "Bad Faith" allegation, and an answer to "Bad Faith" allegations.

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