

Steven K. Hayes

From: Law Office of Steven K. Hayes <shayes@stevhayeslaw.com>
Sent: Wednesday, January 01, 2020 1:40 PM
To: shayes@stevhayeslaw.com
Subject: Upcoming Appellate Section Brown Bag Seminar, and Second Court Newsletter

January 1, 2020

Dear Friends:

Welcome to 2020! I hope everyone had a safe and happy New Year's Eve and now looks forward to the best New Year ever.

Save the Date: Friday afternoon, January 24, 2020, from about noon until five, the **Tarrant County Bar Appellate Section** will put on its annual **Brown Bag Seminar**. *Styled Judgments, Collection, and Fees, Oh My!*, we have:

- Judge Mark Pittman and Anne Johnson speaking on Tips and Tricks for Drafting Winning Federal and State Court Judgments;
- Judge Mike Wallach talking about the recent SCOTX attorney's fees cases;
- Jody Sanders talking about Supersedeas Bonds;
- Mark Stout addressing Post-Judgment Collection Issues; *and*
- a Texas Supreme Court panel will discuss the Ethics of Protecting/Overturning Judgments.

In all, roughly **4 hours of CLE (and 1 hour of ethics)** followed by **a reception with the judges and justices**. More details and RSVP information later. See you there!

I checked with the Second Court's Clerk yesterday, and **the Court will open for business as usual on Thursday, January 2, 2020**, but will **not issue opinions again until next Thursday, January 9**. So I won't send out a newsletter this weekend.

Recent Opinions Issued by the Court in Other Civil Cases Not Covered in the Last Newsletter

Summary Judgment (Severance)

Recent Opinions Issued by the Court in Other Civil Cases Not Covered in the Last Newsletter involved:

Summary Judgment (Severance): *Nicholson*, No. 02-19-00085-CV-this case involved Appellant's claims against Bank of America and Countrywide Home Loans (and others) related to the foreclosure of Appellant's home; the Court affirmed the summary judgments for Appellees and the severance of the claims against them. The Court first rejected Appellees' arguments that the Court lacked jurisdiction over the appeal because Appellant's notice of appeal only set out the dates of the severance and new trial orders, not the dates of the summary judgment orders. While TRAP 25.1(d)(2) requires a notice of appeal to "state the date of the judgment or order appealed from," the purpose of that rule "does not . . . limit the trial court rulings that may be challenged on appeal' but rather 'is used to determine whether the appeal is timely.'" The Court then affirmed the summary judgments because: (1) Appellant did not challenge each ground for the summary judgments, in that " nowhere in her brief does Nicholson mention the economic loss rule or challenge the grant of summary judgment on her tort claims on the basis that they were barred by the economic loss rule;" and (2) "Nicholson failed to explain how the [500 pages of summary judgment] record shows that she provided controverting evidence defeating Appellees' entitlement to judgment on any of her claims." The Court also affirmed the severance of the claims against Appellees because Appellant did not "address whether the severed claims, if asserted independently, were the proper subject of a lawsuit and does not explain how the severed claims are so interwoven with the remaining action that they involve the same facts and issues" nor did she "explain why the trial court abused its discretion by severing her claims in order to render its interlocutory summary judgment orders final and appealable."

All for now. Y'all have a good week.

Best regards.

Yours,

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