

Amanda Grainger and Dick White Author for SMU Annual Texas Survey: Real Property

10.12.20

Winstead PC Shareholders [Amanda Grainger](#) and [Dick White](#) wrote the Real Property chapter for the *SMU Annual Texas Survey* published by the Southern Methodist University Dedman School of Law. The chapter covers mortgages, foreclosure and liens; landlord–tenant relationships and leases; construction matters; homestead and home equity lending; and more. An excerpt is below:

“This article covers cases from Southwestern Reporter (Third) volumes 560 through 580 and federal cases during the same period that the authors believe are noteworthy to the jurisprudence on the applicable subject.

This Survey period saw a number of cases of first impression, covering issues involving the waiver of security interest for failure to take remedial actions, the right for outsider reverse veil-piercing, and whether a limited partner could waive the attorney–client privilege for the partnership. The Texas Supreme Court provided jurisprudence on the parol evidence rule in a debt satisfaction matter and the “public use” doctrine in condemnation and broke new legal ground by permitting a tenant to terminate a lease for breach of express covenants in a lease when the lease expressly provided the only remedy to be damages.

Other important decisions addressed construction termination for mechanics lien filings, abandonment of a prior acceleration of debt, limitations based on an acceleration notice, contributions among co-guarantors, evidence needed for a deficiency judgment, acknowledgment of a debt to avoid limitations, the duty of executive right holders toward nonexecutive right holders, the rules governing easements by necessity and easements by implication, the use of forcible detainer action to evict a tenant for something other than non-payment of rent, and, in what seems to be a yearly saga, when a case can be dismissed for failure to comply with the certificate of merit statute.

Cases of particular interest to practitioners, due to dissents, split of opinions, or absence of jurisprudence, involved whether to seek avoidance or damages under a contract, details for a demand notice, waivers of limitations, a termination option in a lease, electronic signatures, explicit maintenance provisions, and res judicata in foreclosure actions.

Perhaps most important was the purported waiver of limitations for a deficiency claim against a guarantor.”

[Read the full article.](#)

Winstead’s [Real Estate Industry Group](#) serves as a leading resource for both national and regional companies. With more than 100 real estate attorneys, Winstead’s experience spans the full spectrum of real estate services. The group’s collective experience allows them to achieve desired results at any stage of the real estate cycle in both stable and challenging economic times. The group’s client list includes many of the largest and most active real estate companies, institutional investors, financial institutions, mortgage lenders and loan servicers in the United States, as well as individual investors and entrepreneurs.

About Winstead

Winstead is a national business law firm with nearly 300 attorneys who serve as trusted advisors to emerging, mid-market and large companies, both public and private. The Winstead team provides a range of core legal services that are critical to our clients achieving their business goals. Winstead’s business transactions and litigation practices serve key industries including airlines, financial services, healthcare, investment management/private equity, life sciences, real estate, sports business and universities.