



GIBSON DUNN

Appellate and Constitutional Law Update

January 22, 2024

Texas Supreme Court Holds Courts Cannot Create New Duties When Existing Duty Rules Apply

HNMC, Inc. v. Chan et al., No. 22-0053 – Decided January 19, 2024

On January 19, 2024, the Texas Supreme Court held 9-0 that a property owner isn't liable for an accident that occurred on an adjacent roadway when the property owner didn't control any condition on the roadway that caused the accident.

"[C]ourts should not attempt to craft case-specific duties when recognized duty rules apply to the factual situation at hand."

JUSTICE BUSBY, WRITING FOR THE COURT

Background:

Francis Chan worked as a nurse at Houston Northwest Medical Center, and she routinely parked her car across the street from the hospital in a lot the hospital owned. Pedestrians routinely used an abandoned crosswalk controlled by Harris County to cross between the hospital and the parking lot. When Chan did so, a vehicle exiting the parking lot struck and killed her. Chan's estate filed a negligence suit against the driver and the driver's employer, which designated the hospital and the County as responsible third parties.

A jury found the hospital 20 percent liable, and the *en banc* court of appeals affirmed. In doing so, the court acknowledged the longstanding principle that premises owners generally have no duty to ensure the safety of an adjacent roadway. But instead of applying that rule, it used the multi-factor balancing test adopted by the Texas Supreme Court in *Greater Houston Transportation Co. v. Phillips*, 801 S.W.2d 523 (Tex. 1990), to recognize a new duty specific to the situation presented in this case to hold the hospital negligent.

Issue:

Did the court of appeals correctly recognize a new duty that required a hospital to ensure the safety of pedestrians on a road adjacent to its property?

Court's Holding:

No. A duty rule already exists that contemplates this case's factual situation, so assessing the *Phillips* factors to recognize a new duty is improper. Premises owners generally have no duty to ensure the safety of persons on adjacent properties, and the hospital didn't control any aspect of the adjacent roadway that caused the accident.

What it Means:

- Texas courts may not create new, case-specific duties “[w]hen a duty or no-duty rule already exists that contemplates a particular case’s factual situation.”
- Even if a property owner is aware of an obvious danger on an adjacent property, the owner has no duty if the owner doesn't control that property.
- The Texas Supreme Court reserved for future consideration the question whether to reconsider, in light of the U.S. Supreme Court's intervening decision in *Dupree v. Younger*, 598 U.S. 729, 735–36 (2023), prior precedent holding that the denial of summary judgment on purely legal grounds can't be challenged on appeal after a trial. Litigants should be on guard to preserve this issue in post-trial proceedings moving forward.

Gibson Dunn Appellate Honors



The Court's opinion is available [here](#).

Gibson Dunn's lawyers are available to assist in addressing any questions you may have regarding developments at the Texas Supreme Court. Please feel free to contact the following practice leaders:

Appellate and Constitutional Law Practice

Thomas H. Dupree Jr.
+1 202.955.8547
tdupree@gibsondunn.com

Allyson N. Ho
+1 214.698.3233
aho@gibsondunn.com

Julian W. Poon
+1 213.229.7758
jpoon@gibsondunn.com

Brad G. Hubbard
+1 214.698.3326
bhubbard@gibsondunn.com

Related Practice: Litigation

Reed Brodsky
+1 212.351.5334
rbrodsky@gibsondunn.com

Theane Evangelis
+1 213.229.7726
tevangelis@gibsondunn.com

Veronica S. Moyé
+1 214.698.3320
vmoye@gibsondunn.com

Helgi C. Walker
+1 202.887.3599
hwalker@gibsondunn.com

Related Practice: Texas Litigation

Trey Cox

+1 214.698.3256

tcox@gibsondunn.com

Collin Cox

+1 346.718.6604

ccox@gibsondunn.com

Michael Raiff

+1 214.698.3350

mraiff@gibsondunn.com

Gregg Costa

+1 346.718.6649

gcosta@gibsondunn.com

This alert was prepared by Texas associates Elizabeth Kiernan, Stephen Hammer, and Brian Sanders.

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