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Greetings! The Monitor is pleased to bring you the 2020 edition of the Rio Grande Valley Law Book. As always, our goal is to offer readers fundamental information on a variety of common legal topics. In this issue, for example, you'll find insight on what to do if you're involved in a car accident, why you might need a special needs trust, how to appeal a property appraisal, and other topical matters. The articles are intended for non-attorneys, and thus are presented in a concise, readily understandable manner, without confusing legalese.

This publication also includes an up-to-date directory for the county’s judicial system. In one convenient resource guide, you’ll find contact information for every court in the county, from Justices of the Peace to state and federal District courts.

Legal information is not just for attorneys and judges. Most of us will be faced with some kind of legal problem at some point during our lifetime. Arming yourself with a fundamental understanding of the law is a critical part of being prepared and could make all the difference when your freedom, money, or property might hang in the balance.

The content of this publication is not presented as legal advice. Rather, our goal is to bring you fundamental information designed to stimulate conversation and help make you a better-informed partner with your attorney when confronted with a legal challenge.

We invite you to view this resource guide on our website of themonitor.com and don’t forget to reserve the date for our next issue coming soon!

**OUR TEAM**
Publisher: Stephan Wingert
Advertising Writer: Benjamin Trevino
Graphic Designer: Eddie Mirza
Coordinator: Betty Tamez

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**THE MONITOR**
1400 E Nolana, McAllen, TX 78504
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rodriguez
30162381
The coronavirus (COVID-19) outbreak has affected the job situations for thousands of people across the Valley. Employment law attorneys are particularly focused on protecting people’s job rights, so RGV Law Guide asked a local lawyer to explain a few key points of the Families First Coronavirus Response Act (FFCRA) might protect your livelihood.

FCRA, which is effective April 1 through December 31, 2020, addresses the impact of COVID-19 on the domestic front by providing expanded nutrition assistance, paid sick leave, enhanced unemployment insurance coverage, free coronavirus testing, and increased federal Medicaid funding.

The key takeaways are:
• Nutrition funding for Americans facing food insecurity.
• Mandated family medical and paid sick leave for employees.
• Tax credits to reimburse employers for sick leave and family medical leave.
• Free coronavirus testing for everyone, but treatment is not covered.
• Extended unemployment benefits and additional funding to states.

Under the FFCRA, an employee qualifies for paid sick time if the employee is unable to work (or unable to telework) due to a need for leave because the employee is:
• Subject to a federal, state, or local quarantine or isolation order.
• Has been advised by a health care provider to self-quarantine.
• Is experiencing COVID-19 symptoms and is seeking a medical diagnosis.
• Is caring for an individual subject to a quarantine order.

“That's generally correct,” said McAllen employment law attorney, Cindy A. Garcia. “The ADA does provide for disability by association, however, they're governed and controlled by case law. Some courts here will allow that, but some courts won't. If you have someone in your home that has some underlying condition that you're concerned about going out to work, I would make the employer aware of it, but a lot of employers are not necessarily abiding by that.”

Who, then, is in charge of enforcement? Garcia says at this point, it's an open-ended question.

“Honestly, this is sort of an evolving thing,” said Garcia. “All of us who practice in this area have been maneuvering through, figuring out how we help these clients out and where do we plead it. Is it Department of labor? Is it going to be filing a charge of discrimination with Texas Workforce Commission or the EEOC? Where is it we're going to get the help they need once this comes down?”

Texas is an at-will employment state, which means an employer can generally fire any employee for any reason, or even no reason at all. However, employers cannot get rid of employees for discriminatory reasons.

If an employee suspects the employer has used the pandemic as an excuse to cover a discriminatory firing, Garcia urges them to contact a qualified attorney even though disposition of the case may be impacted by ongoing safety restrictions.

“I, personally, have been home-bound since mid-March,” said Garcia. “I’ve been handling all my consultations by phone and/or by Zoom. It has worked well. People that need a consultation have been generally understanding. If someone wants to meet in person, we can make arrangements to do that.”

There are several websites that employees can use to get basic FFCRA information. They include the Small Business Administration, the Centers for Disease Control, the Texas Workforce Commission, and the Equal Employment Opportunity Commission. For specific information about specific situations, employees should contact a trusted attorney who specializes in employment law.
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One of these issues involves the court system, which for a time was largely shut down as the emergency peaked. This means some personal injury cases may not be resolved as quickly as they would be under normal conditions.

Almost all personal injury cases settle before going to trial, but many cases proceed through at least one hearing in a court before the parties reach a settlement. Therefore, some accident victims may face delays in getting their case resolved.

“We have definitely seen many different kinds of cases,” said McAllen personal injury attorney, Bobby Garcia. “I’ve gotten more calls from business people than I’ve ever had in the almost 30 years that I’ve been practicing law. However, the judges, at least here in the Valley, have done a pretty darn good job of having telephonic or other virtual hearings. Today I have a mediation hearing via Zoom, and it’s all virtual.

We’ve had depositions, and all forms of discovery. Discovery has not been a problem. Business interruption insurance will be a big issue in the coming months, according to Garcia. Business people who are incurring losses will understandably be making claims, but Garcia expects that there’s going to be a lot of legal back-and-forth with the insurance companies over payment of such claims.

“People that are losing any kind of business income need to make claims,” said Garcia. “But they’ve got to expect that there’s going to be a big fight with the insurance companies with respect to all the issues that come out of it, and all of the obstacles that the insurance companies are going to provide for you to get over it, for a person who rightfully needs and has a claim for business income through their insurance policy in order for them to receive it.”

As unemployment rises and an increasing number of workers raise safety concerns over the coronavirus, lawyers in the class action bar predict that the largest group of class actions filed over the COVID-19 outbreak is likely to come from employees. Among the allegations that are likely to be seen in the coming months: employees denied wages, discrimination during layoffs, or putting workers in unsafe conditions. So far, employees for the government, a hand bell factory and a hair salon have filed class actions, and lawyers predict many more to come, as millions of people file for unemployment claims.

The first Covid-19 related lawsuit was filed March 9th by a Florida couple suing a cruise line after being quarantined on a ship. The couple is seeking $1 million in damages, claiming Princess Cruise Lines put passengers in danger. Garcia, however, says winning such cases will be an uphill battle.

“I think it’s going to be real difficult,” said Garcia. “In a case like this, the people say they were unduly quarantined, and they infringed on their constitutional rights. Well, they’re probably right, but there is a matter of national emergency. They’re going to have to show something totally unrelated to the Covid-19 that the cruise ships did or the government did in order to get around that. It’s going to be very, very difficult.”

Garcia says he continues to get calls on a variety of different case scenarios. Most of those calls have been in regard to business losses.

“We guide each one of them through the process, depending on what their insurance policy says,” stated Garcia. “We encourage people to call. We’re here to serve the public. Probably one-third of our work is free. We tell people who have questions with regards to this to call us, and if we can help them we certainly will.”
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<th>Phone</th>
<th>Case Manager</th>
<th>Phone</th>
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<tbody>
<tr>
<td>Chief Judge Ricardo H. Hinojosa</td>
<td>(956) 618-8100</td>
<td>Alex De La Garza</td>
<td>(956) 618-8474</td>
</tr>
<tr>
<td>Judge Randy Crane</td>
<td>(956) 618-8083</td>
<td>Ludi Cervantes</td>
<td>(956) 618-8473</td>
</tr>
<tr>
<td>Judge Micaela Alvarez</td>
<td>(956) 618-8270</td>
<td>Iris Belmares</td>
<td>(956) 618-8470</td>
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## MAGISTRATE JUDGES

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<tr>
<td>Judge Dorina Ramos</td>
<td>(956) 618-8100</td>
<td>Lupita Corbett</td>
<td>(956) 618-8428</td>
</tr>
<tr>
<td>Judge Peter E. Ormsby</td>
<td>(956) 618-8080</td>
<td>Carmel Rodriguez</td>
<td>(956) 618-8431</td>
</tr>
<tr>
<td>Judge Juan F. Alanis</td>
<td></td>
<td>Jennelle Gonzalez</td>
<td>(956) 618-8478</td>
</tr>
<tr>
<td>Judge J. Scott Hacker</td>
<td></td>
<td>Janie Leyva</td>
<td>(956) 618-8427</td>
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## BANKRUPTCY JUDGES

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<th>Judge Name</th>
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<tbody>
<tr>
<td>Judge Marvin Isgur</td>
<td>(713) 250-5639</td>
<td></td>
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## ADDITIONAL NUMBERS

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<tr>
<th>Service</th>
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<tr>
<td>General Information</td>
<td>(956) 618-8065</td>
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<tr>
<td>Jury Clerk</td>
<td>(956) 618-8479</td>
</tr>
<tr>
<td>Federal Public Defender</td>
<td>(956) 630-2995</td>
</tr>
<tr>
<td>United States Attorney</td>
<td>(956) 618-8010</td>
</tr>
<tr>
<td>United States Pre-Trial Services</td>
<td>(956) 618-8077</td>
</tr>
<tr>
<td>United States Marshal</td>
<td>(956) 618-8025</td>
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<tr>
<td>United States Probation</td>
<td>(956) 618-8035</td>
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## STATE AND COUNTY COURTS

13th Court of Appeals

- **Main Office:**
  - 901 Leopard
  - Corpus Christi, TX 78401
  - (361) 888-0416

- **Hidalgo County Office:**
  - 100 East Cano
  - Edinburg, TX 78539
  - (956) 318-2405

### Justices

- Chief Justice Dori Contreras
- Justice Gina M. Benavides
- Justice Nora Longoria
- Justice Leticia Hinojosa
- Justice Rodolfo “Rudy” Delgado
- Justice Gregory T. Perkes
STATE DISTRICT COURT JUDGES

92nd District
Luis M. Singleterry
(956) 318-2250

93rd District
Fernando Mancias
(956) 318-2255

139th District
Roberto “Bobby” Flores
(956) 318-2260

206th District
Rose Guerra Reyna
(956) 318-2265

275th District
Maria Cuellar
(956) 318-2270

332nd District
Mario E. Ramirez, Jr.
(956) 318-2275

370th District
Noe Gonzalez
(956) 318-2280

389th District
Letty Lopez
(956) 318-2080

398th District
Keno Vasquez
(956) 318-2470

430th District
Israel Ramon, Jr.
(956) 318-2900

449th District
Renee R. Betancourt
(956) 381-0744

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County Court #2
Jaime Palacios (956) 318-2380

County Court #4
Fred Garza (956) 318-2390

County Court #5
Arnoldo Cantu (956) 318-2460

County Court #6
Albert Garcia (956) 289-7400

County Court #7
Sergio Valdez (956) 292-7780

County Court #8
Omar Maldonado (956) 292-7740

Probate Court
JoAnne Garcia (956) 318-2385

MASTER COURT JUDGES

Master Court #1
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Master Court #2
Ismael “Kino” Flores (956) 318-2452

JUSTICES OF THE PEACE

Precinct 1, Place 1
Gilberto Saenz (956) 447-3995

Continues on page 14
Precinct 1, Place 2
Jesus E. Morales (956) 968-0707
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Precinct 2, Place 2
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Precinct 3, Place 2
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Precinct 4, Place 1
Charlie Espinoza (956) 380-4473
Precinct 4, Place 2
Homero Jasso, Sr. (956) 383-0921
Precinct 5, Place 1
Jason Pena (956) 292-7015

Ricardo Rodríguez (956) 292-7600
District Clerk
Laura Hinojosa (956) 318-2200
County Clerk
Arturo Guajardo, Jr. (956) 318-2100
Public Defender’s Office
Jaime E. Gonzalez (956) 292-7040

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Alton
Carlos E. Ortegon (956) 213-8080
Donna
Javier F. Garza (956) 464-6942
Edcouch
Armando Marroquin/Robert Schmalzried (956) 262-2140
Edinburg
Toribio Palacios (956) 289-7797
Elsa
Osiel Ramos (956) 262-9866
Hidalgo
Ivan F. Perez (956) 843-8140
La Joya
Alex Cantu (956) 581-7095
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Mercedes
Juan Ramon Alvarez (956) 565-3114
Mission
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Progreso
Crystal Garza (956) 565-0241
San Juan
Eloy Hernandez/Rick Perez (956) 223-2460
Sullivan City
Roberto Garza/Jesse Lerma (956) 485-2828
Weslaco
Samuel Sanchez/Juan Alvarez (956) 968-6123
HIDALGO COUNTY COURT SYSTEM
ADAPTS TO COVID-19 ERA

By Benjamin Treviño

There is a misconception that the Hidalgo County courthouse is closed due to the outbreak of Covid-19, according to Judge Noe Gonzalez of the 370th District Court. Gonzalez, who also serves as Presiding Administrative Judge of the county, says that is not the case.

370th District Judge Noe Gonzalez discusses an objection during a murder trial in this Monitor file photo from October 2017.

“Every single court in the county in one form or another has continued to work,” Gonzalez told RGV Law Guide, via Zoom teleconference. “That includes municipal courts, JP courts, county court at law judges, district courts, and appellate courts. We have all been working. What has changed is we do not have juries, and we will not have juries until after August 1, for now.”

Visitors to the courthouse will find a building that is mostly empty, but Gonzalez emphasizes that it’s only because almost every department is working remotely. As of press deadline for this publication, Gonzalez had submitted an updated plan which, if approved by the 5th Region, the Texas Supreme Court, and the Office of Court Administration, would give greater access to the general public.

“That plan allows us to have live hearings, but only if we cannot do it remotely,” said Gonzalez. “That includes social distancing, that includes special disinfectants and tissues and masks, and all those things that come along with trying to protect the public from further transmission of a disease. Basically we’re preparing the courthouse so that all people can come in and feel safe.”

The Texas Constitution mandates that Texas courts remain open to the public. As the Coronavirus continues changing court operations, and more hearings move to telephone or video conference, judicial leaders are developing ways to allow the public to listen or watch.

“There’s a general provision in the Texas Constitution that says Texas courts should be open,” Texas Supreme Court Chief Justice told the online judicial industry publication, Law.com. “There’s nothing specific in the U.S. Constitution, but it’s really understood that court proceedings need to be open to the public, unless there’s a reason to close them.”

Essential proceedings such as bond hearings, writs of habeas corpus, and others are moving forward as normal. But, nonessential matters such as motion papers and notices of appeal have either been postponed or handled through electronic hearings.

The Texas Office of Court Administration is testing a video conferencing system that would allow a judge to create a link for litigants, attorneys, and others, and also to stream that conference to the public on the internet. To stream proceedings to the public, Texas courts would create YouTube channels or Facebook Live channels.

“I was appointed to do a test case sometime in July,” said Gonzalez. “But we still haven’t found a case we’re satisfied with, one that would fit the bill for a test case.”

Meantime, the filing of new cases has not stopped, since much of it can be done remotely. All courts are still moving forward – divorces, name changes, contract cases – any type of case being filed is still moving through the system.

“There has definitely been a backlog across the board,” said Gonzalez. “Starting at municipal level and moving up to the highest trial courts, which are the district courts, and then there’s the appellate courts. There has been some backlog that has accumulated. What those numbers will look like in the end, we don’t know, because we’re adjusting as we go. But, we’ll eventually catch up.”

Gonzalez praised his fellow judges and local attorneys over how they are adapting and making sure that the Hidalgo County court system continues to function.

“I want the general public to be confident that their courts are working,” Gonzalez stated. “Having said that, patience is going to be of utmost importance for everybody because things are running differently.

The picture looks different, but once we get cranking up and our knowledge of the technology catches up, we’ll be able to do this faster. In fact, I envision after Covid-19 settles down, hopefully sooner than later, that a lot of the technology we’re utilizing now is going to stay in place. We’re going to continue to use it.

Gonzalez has penned a letter to the public explaining how the county is trying to balance Constitutional requirements for judicial proceedings with the effort to protect public safety. Additionally, the Texas Supreme Court has issued 17 Executive Orders on the subject, and Gonzalez has issued five of his own for Hidalgo County. The letter, along with all the orders, can be accessed at: www.hidalgocounty.us/2634/COVID-19-Judicial-Orders.
EXPLORING FOUR COMMON MYTHS ABOUT PERSONAL INJURY LAW

By Benjamin Treviño

Contacting a lawyer for help with a personal injury case can feel intimidating, especially in the wake of a serious accident. Many victims are struggling with huge medical bills, further adding to the confusion about what one should do in order to get compensation. RGV Law Guide wants to help our readers understand personal injury law a bit better by dispelling some common myths and misconceptions about this legal specialty.

Myth #1: It costs a lot of money to talk to and hire a personal injury lawyer.

This is a common myth mainly because there are different ways that attorneys charge for their services. Hiring certain lawyers, such as a divorce attorney or criminal defense attorney, usually does require an up-front charge. However, in personal injury law, the vast majority of attorneys use a contingency fee structure.

“The lawyer who works on a contingency basis does not get paid until the case is settled and the funds are disbursed,” said Weslaco personal injury attorney, Zeke Reyna. “If for whatever reason there is no settlement, most contingency fee contracts will specify that the lawyer does not receive any fees at all. That’s a huge advantage to the client, because the client does not have to come up with any type of fee or retainer up front, or during the process of the actual development and prosecution of the case.”

Myth #2: My insurance company will cover my medical bills and other losses.

The truth is most insurance companies will try to pay you the least amount of money possible to make your claim go away. Each year, insurance companies only pay about 50% of the costs associated with motor vehicle crashes. Moreover, crash victims end up paying about 26% of motor vehicle crash costs out of their own pockets.

“Insurance companies are created to make money for their shareholders,” Reyna said. “The less money they pay to a claimant, the more money they make. Since most claimants don’t know their rights and have no ability to enforce those rights on their own, then obviously the insurance companies are going to take advantage of their situation.”

Myth #3: The person or company responsible for my injuries will experience financial hardship.

In almost every personal injury case, insurance companies pay the claim, not the individual or company responsible. Furthermore, there may be several different sources of insurance coverage that can be sought to pay for your personal injury claim. If you are hit by a company truck, for example, you may be able to sue the driver, the trucking company, and/or a parts manufacturer to get the compensation you need to pay for your losses.

“By and large, most people do have insurance, because it’s compulsory under state law,” stated Reyna. “The
INJURY  FROM 16
insurance company takes over
the responsibility and obligation
on behalf of the insured. If
the person responsible for the
accident has insurance, that
particular person has no personal
responsibility for the victim that
they injured.

Myth #4: It’s not worth
talking to a lawyer over
minor injuries.

In truth, the average
personal injury claim
award is $28,000,
according to data
from the Bureau of
Justice Statistics.
So-called "minor
injuries" can
often become
more painful
and serious
over time.
Patients can
end up seeing
several doctors
and having
multiple
tests done
just to find
out why they
are experiencing pain, and other
symptoms. They miss work, miss
out on their hobbies, and may even
struggle with psychological, or
emotional issues such as PTSD after
being injured.

“It behooves the claimant to seek
medical attention if they’ve been
injured in an accident, even a minor
accident,” said Reyna. “If nothing else,
to verify that they’re going to be okay
in the long term. This is especially
important for older people, because as
we all know the aging process the body
starts hurting without any real trauma.
So when there’s an accident like this it
can come back to haunt you.”

Don’t delay
In Texas, personal injury suits
generally must be filed within two
years of the date of the accident. Two
years might seem like a long time,
but it can go by quickly for patients
who are focused on recovery. While
there are some circumstances that
can extend the time frame you have
available to file a lawsuit, they are
limited and complicated. This is just
one more reason why it’s important to
talk to a lawyer right away if you have
been injured and you believe you’re
entitled to compensation.
YOU WANT TO BECOME A COURT BAILIFF?
HERE’S WHAT YOU NEED TO KNOW

By Benjamin Treviño

The bailiff profession has been around since before the Norman conquest of England in 1066. Today’s bailiffs fundamentally serve as peace officers of the court.

They are responsible for maintaining courtroom order, which includes providing security to jurors, attorneys, judges and members of the public present in the courtroom. A bailiff also helps facilitate all court proceedings, such as announcing the arrival of the presiding judge.

“We are responsible for the overall safety of the court,” said 370th District Court Bailiff and Coordinator, Romeo Rodriguez. “We protect the judge and the audience in the courtroom itself. Safeguarding the jury is another duty we have. When there is a jury trial we’re responsible for the members of the jury. We bring them in, prepare them for court, and keep them away from the public during the trial itself. If there’s a need for an interpreter, we can do that as well.”

The responsibilities of a courtroom bailiff can vary considerably, depending on the courthouse in which they serve. However, the requirements and qualifications are the same for all bailiffs. Generally speaking, a bailiff candidate must at minimum:

• Have a high school diploma or GED
• Be at least 21 years of age (18 for some positions)
• Pass a background check, drug screening and physical endurance test
• Have some knowledge, familiarity or training in criminal justice or law enforcement

“Here in the Valley, being bilingual is a plus,” said Rodriguez. “Court proceedings are conducted in English, so we do a lot of interpreting in court, because of the large Spanish-speaking population.”

At a minimum, bailiffs are required to have an associate’s degree in criminal justice or a related field. However, having a bachelor’s degree will make an applicant a more-competitive candidate for a bailiff job.

Bailiffs are also required to have a Courtroom Security certificate from the Texas Commission on Law Enforcement (TCOLE). In some areas, law enforcement training is required. Some bailiffs may even need to graduate from the police academy before attaining a full-time position. Bailiffs may also be expected to have:

• Firearms training
• Non-lethal defense training (pepper sprays, police batons, etc.)
• Self-defense techniques
• Threat neutralization training
• First aid and CPR training

“I have been a bailiff on and off for about five years,” said Rodriguez. “But, I also have 15 years of experience with the Hidalgo County Sheriff’s Office and the District Attorney’s office. When the opportunity to become a bailiff presented itself, I took advantage and got hired on.”

Texas bailiff salaries can vary greatly, depending on where you decide to work. The pay ranges from about $26,000 in smaller counties, to as much as $60,000 in large, metropolitan areas. Salaries also increase depending on the level of court in which you serve from county courts at law all the way up to the Texas Supreme Court.

Rodriguez was born, raised, and attended high school in Hidalgo. He attended college at STC, before transferring to UTRGV. Rodriguez not only serves as bailiff of the 370th District Court, he is also the court coordinator, which includes many other logistical duties on top of maintaining order in the court. He encourages others in the law enforcement field to consider the rewards of becoming a bailiff.

“You can take pride in the fact that your services are needed and respected,” said Rodriguez. “I sure do recommend it. If they come across the opportunity, I think they should take it. Obviously, you should have some law enforcement experience, and be TCOLE certified, which all peace officers in Texas are. It’s a good job.”
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If you, as a parent, have any reasonable expectation that your child's well-being or safety is compromised because of Covid-19, then you should be encouraged to not necessarily violate the court's order, but disallow the visitation," said Edinburg attorney, Oscar Rene Flores. "Don't let the visitation happen unless and until you are satisfied that mom, or dad, or grandma, or grandpa, or whoever they're going to be with, unless you're satisfied that the environment is going to be safe."

The reality is that violating any court order is legally perilous, and the consequences can be severe. If a judge finds that you have violated the terms of the custody agreement without cause, then you risk losing your custody rights entirely. “I would encourage making a telephone call to local police in an effort to preempt any issues,” said Flores. “By calling the police ahead of time, you are allowing them to understand the reason why you’re not going to let the kids go. I would also encourage communication with the ex-spouse. Obviously violating a court order in any situation is dangerous. You shouldn't be contemplating that, but there are realities. You're also encouraged to visit with an attorney so that you can file the appropriate paperwork, if you need to modify the court order that’s in place now.”

There is nothing more important than the child's health. If your former spouse is infected with the virus, then the decision to not send your child to their home is pretty clear cut.

The grey area arises when an ex is not infected, but he or she has been exposed, or lives in an area where there is rampant community spread of the virus. Another issue is whether a former spouse can be trusted to practice effective social isolation. Most child custody law agreements will contain the following details:

• Where the child will live
• Whether one parent will have primary physical custody
• Who will make major decisions regarding child’s upbringing
• Visitation rights
• How and where the child will spend their holidays
• How will contact with grandparents and other relatives or friends be handled

Custody determinations always come down to the “Best Interest Standard.” If you can prove to a judge that it is in your child’s best interest to remain with you either temporarily or for the duration of the pandemic, then that’s what you need to do.

“Part of your job as a parent is to protect the safety and the mental and physical well-being of the child,” Flores stated. “We are seeing an uptick in domestic violence. We're seeing an uptick in child abuse. Some parents are going through financial troubles that are affecting their ability to deal with emotions. Whatever you do, don't lose your cool, because if you do, you may not need a custody lawyer, you may need a criminal defense lawyer.”

Before relinquishing custody of your child, especially in high-risk areas, it’s important that you discuss strategies for
isolation and quarantine. It’s also a good idea to have emergency protocols in place should anyone in the household begin showing symptoms or be exposed.

Typically, minor children of divorced parents will be under the court’s jurisdiction until 18 years of age. But during that time frame, children grow, lives change, and circumstances change. The best interest of a child who is five may or may not be the same when the child reaches age 12. The Covid-19 pandemic is an extraordinary example of how drastically life and circumstances can change.

“If circumstances change that significantly compromise the ability for the order to work, then I would encourage them to visit with their attorney to find out what their rights are in terms of modifying the court’s order,” said Flores. “Even during a pandemic your divorce attorney will likely be willing to teleconference with you to discuss your concerns and establish a strategy to protect your child and preserve your custody rights. Any modifications will turn on what’s in the best interest of the child. It always comes back to that.”
COVID-19 AND THE IMPORTANCE OF ESTATE PLANNING

By Benjamin Treviño

During uncertain times, it’s natural for people to think about getting their affairs in order to ensure their loved ones and assets are protected should something happen to them. Estate planning is always a good idea, but it’s especially important in times such as this year’s Covid-19 pandemic.

“This virus has created a lot of uncertainty and a lot of people are worried about it,” said estate planning attorney, Leo Lara. “It has raised awareness and I think it’s appropriate that it is getting attention. One thing that is certain is that we’re all going to die someday, and so we’re all going to have to do some kind of preparation. It has to be done sooner or later.”

Estate planning means more than just having a will. A strong estate plan also includes important documents such as a revocable trust (sometimes called a living trust), financial powers of attorney, and health care powers of attorney.

Wills
A will is a legal document stating how you want your affairs handled and assets distributed after you die. If you have minor-aged children at home, it’s important to have a will that appoints guardianship of your children. If a guardian is not appointed through your will, your surviving family will have to seek help in a probate court to have a guardian appointed for your children. The person appointed may or may not be the person you would have wanted to be entrusted with your kids.

“Most people don’t understand how much trouble, confusion, expense, and hardship they leave behind for their survivors when they don’t plan to provide for their survivors,” Lara said. “The will is going to have certain provisions like who the maker (of the will) is, who the family is, and are they going to pay the final expenses? It also states how the assets of the person are going to be divided. It names the executor. And it gives them the power and the authority to do what they need to do. They can also provide how they want to be buried and so on and so forth.”

Trusts
There are many types of trusts, but they generally fall into two categories: living and testamentary. You can also create a trust for the purpose of avoiding probate court, called a revocable living trust. It is called revocable, as it can be changed during the life of the trustor. The trustor maintains ownership of the property held by the trust while the trustor is alive. Unlike a will, a living trust passes property outside of probate court. There are no court or attorney fees after the trust is established. Your property can be passed immediately and directly to your named beneficiaries.

“The trust is a little more expensive to set up,” said Lara. “But the trust lays out who’s in charge. A trust is more efficient and it’s private. Nobody knows what went in it. You don’t have to tell anybody what you own, what you have, or how it’s going to be distributed. The documents themselves are self-authenticating, they’re notarized, they’re set up, and the property gets transferred into the trust. The good thing about that is you don’t have to go to court to get any kind of authority. There’s a lot more flexibility in a trust.”

Advance Medical Directive
It’s also important to consider your medical decisions. Setting up an Advance Medical Directive tells doctors and caretakers to make the appropriate decisions if you become terminally ill and can’t act on your own.

By specifying how and when to proceed with specific treatment plans, you take uncertainty out of the equation and make it easier for people to follow your wishes. Be sure that the document also includes a HIPAA (Health Insurance Portability and Accountability Act) privacy waiver so that your medical agent has access to your medical information.

“The medical power of attorney is for when you are unable to make decisions for yourself about medical treatment,” said Lara. “You can also have advanced guardianship designations. For example, if you’re an elderly person and you don’t really have children you can designate ahead of time if I become incapacitated or have Alzheimer’s I can do this guardianship document and I can choose in advance who I’d like to take care of me.”

Update as Necessary
Finally, take the time to periodically review your beneficiary designations to make sure everything is up to date. It’s recommended you review them every year along with your assets, insurance, and beneficiaries. Questions about your specific situation should be addressed with the attorney of your choice.
COVID-19 AND THE IMPORTANCE OF

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As discussed in a separate article in this publication, Texas Rio Grande Legal Aid (TRLA) is responding to a variety of legal issues generated by the Covid-19 pandemic. The non-profit is offering free legal services to those impacted by Covid-19, but who cannot afford an attorney. The number one query TRLA is getting has to do with employment issues.

“Almost all the calls we’re getting right now are almost exclusively related to the pandemic, and particularly this topic of employment rights,” said TRLA attorney and labor group coordinator, Katy Youker. “We’re hearing questions such as, ‘Do I have to return to work now that my employer has reopened?’ They’re asking if they can continue to get unemployment if they return to work. Also, they want to know what to do if they don’t feel safe at work.”

Youker adds the best way to avoid the virus is to take leave of absence if you can. There are a number of situations that allow workers to take leave and retain their job, but many don’t know about their rights under the law.

The Family and Medical Leave Act (FMLA) signed into law in March allows anyone who works for an employer with fewer than 500 employees to take Covid-19-related leave. Workers can take paid leave for a number of reasons, one of which is if they were told to quarantine by a healthcare provider. They can also take leave if they have a condition that puts them at high risk, or if they are simply unable to work because their child’s school or the child’s day care provider is closed.

“We know that a lot of employers themselves are not aware of it,” said Youker. “There just hasn’t been a lot of community education or outreach about the new Covid paid leave that’s available to so many millions of workers. So, a lot of people aren’t taking that leave.”

Another reason people can take leave is if they have a disability that has left them immunocompromised, including HIV, asthma, or lung disease. As long as the employee works for a business that has at least 15 employees, they’re protected under the Americans with Disabilities Act (ADA). Generally speaking, those workers have an existing right to ask their employer to make changes to the way they work in order to allow them to continue to work.

“Every situation is fact-specific,” Youker emphasized. “I’m not saying that every employer covered by this law is obligated to see diabetes as an accommodation, but employees certainly have the right to ask for it and start that process of finding a way to allow the employee to continue to work.”

The Covid-19 pandemic has placed many workers in a difficult dilemma. Many feel like they need to choose between continuing to work and protecting their livelihood versus their safety. TRLA wants people to know they do have rights in many of these situations. Knowing those rights, says Youker, puts workers in a better position to protect their jobs and still protect their safety.

Millions of children and teenagers in the United States are injured during school-related activities every year. If you are a parent in Texas, and your child is seriously injured in public school, you’ll likely want to know who is legally responsible for the injury, and if you have any legal recourse.

By Benjamin Treviño
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“Really it’s best to talk to an employment lawyer if possible,” said Youker. “They can also consult the materials we have gathered on our website, because there are so many different existing laws and the new laws that were passed in response to the pandemic that are overlapping and it’s not a very simple situation.”

In order to handle the overwhelming requests for Covid-19 legal advice, TRLA is doing online community education presentations through community groups such as La Union del Pueblo Entero (LUPE) and the Texas Organizing Project. Workers are also urged to visit TRLA’s website (www.trla.org), which includes links which offer answers to some of the public’s most frequently asked questions.

“We’re getting a ton of questions about qualifying for unemployment,” said Youker. “They want to know how it works and why they’re not getting unemployment. There are lots of questions about that and we’re trying to maneuver through them at this time. The public can also ask TRLA questions. It’s free, confidential, and (the questions) will be reviewed by an attorney.”
The major duties of the office include:

- Serving as clerk and custodian of all records for the District Courts
- Indexing and securing all court records
- Collecting filing fees, and handling funds held in litigation and money awarded to minors
- Coordinating the jury panel selection process
- Processing passport applications
- Managing court registry funds

The district clerk performs many other functions as well. A more-complete listing about the responsibilities of a district clerk can be found in the “2018 Guide to Texas Laws for County Officials.” Some duties may vary within individual counties. For example, in Texas counties with a population of fewer than 8,000, the county clerk also serves as the district clerk and assumes all constitutional and statutory duties of both positions.

“It’s been a lot of work, but it truly has been a labor of love,” said Laura Hinojosa, who has served as Hidalgo County’s District Clerk since she was first elected in 2007. “It has taught me a lot about myself, and it’s given me a lot of trust and faith in my staff, because without my incredible staff, I wouldn’t be able to do the things that I have been blessed to do.”

District clerks are elected every four years. To run for the office, you must be at least 18 years of age, a US citizen, a resident of Texas for at least 12 months, a district resident for at least six months, and you must be registered to vote. After being elected, district clerks are required to attain 20 hours of continuing education during each calendar year that begins after his or her election or appointment.

“One of the hardest things is that you don’t have to be a lawyer to be a clerk,” said Hinojosa. “There’s a very fine line between legal advice and legal information, and so as clerks we have to be very careful that we are not giving legal advice, because we are not lawyers. But we are here to help.”

There are 425 district clerks in the state. Hinojosa currently serves as President of the County and District Clerks’ Association of Texas. The purpose of the organization is to promote professional standards, to provide for the continuing education of its members, and to participate in the legislative, judicial and executive processes of state government that affect the performance of the members’ duties.

Hinojosa’s term as president was set to expire June 30, but will likely be extended due to ongoing pandemic restrictions on large gatherings. Hinojosa says the greatest challenge...
for her and her fellow clerks has been to keep the wheels of justice turning while working with only a fraction of their normal crews.

“It’s been tough, trying to keep the social distancing, trying to get our work done,” Hinojosa said. “The courts use electronic filing 24/7, and we work Monday through Friday from 8:00 to 5:00. I’m very proud of our judges, because they’re handling their hearings through Zoom, and our lawyers are doing that too. We don’t have a lot of foot traffic here at the courthouse, but we definitely have a lot of work.

The access to justice is still there.”

Hinojosa’s advice to aspiring clerks is to be a good administrator. That includes a willingness to work and collaborate with the various county and state offices and agencies. She likens the District Clerk’s office to one piece of a larger puzzle.

“I would just encourage people to be willing to work together and bring people together for the betterment of the entire office, not the individual,” said Hinojosa. “Hidalgo County has more than 70 different departments. At the end of the day, if you are not willing to work with others, you’re not going to get anywhere. As an elected official, everyone who voted for you is basically your boss, and you have to be willing to listen to not only the good, but also listen to the bad and be willing to make the necessary changes for the good.”
As time has gone on and I’ve been exposed to more in the law, that’s kind of what has opened my eyes,” said Marroquin. “Sometimes if you want to make certain changes, you can do it better from within as opposed to on the outside.”

Marroquin won the Democratic primary race for Hidalgo County Court at Law #10 earlier this year. The general election isn’t until November, but with no Republican challenger, Marroquin’s ascension to the bench is widely seen as a formality. Under state law, he must receive at least one vote in the general election.

Marroquin has a general law practice in McAllen, with a focus on criminal defense and personal injury. He has also served as municipal judge for the city of Edcouch. Marroquin says his experience practicing law outside the Valley coupled with the feedback he got on the campaign trail have motivated him to try to make the court system more user friendly.

“The great thing about campaigning is you learn a lot from people as you speak to them,” said Marroquin. “There’s a lot of people that go through the legal system that have never had a brush with anything legal, so when they get there, it can be scary, and it can be frustrating. The main things I heard from people is that they want the courts to be more efficient, because time is valuable. Number two, they want to be treated fairly.”

The county court at law system in the Valley has a large volume of court cases, which is why the Texas Legislature created two new courts (9 & 10) in 2019. Both courts are set to begin hearing cases January 1, 2021. But, according to county budget office estimates, it will cost about $2.7 million a year to run both courts, and funding is not expected to be hammered out until the next budget cycle begins in October.

On top of that, the new Hidalgo County courthouse is still under construction, adding to the uncertainty about whether there will be a smooth rollout for the courts come January.

“Honestly, I really don’t know where they’re going to house the court,” Marroquin said. “I don’t know how that’s all working out. They know where they’ll put (the new courts) in the new courthouse, but as of right now, or as of January 1, 2021 if the new courthouse isn’t finished they’re going to have to come up with a space for these new courts.”

As with courts in other parts of the state and nation, the Covid-19 pandemic has hampered the Hidalgo County judiciary. Courts at every level have postponed or canceled proceedings in response to the spread of coronavirus. However, Marroquin believes some of the lessons learned from the outbreak can be used to streamline the system moving forward.

“I’m optimistic,” said Marroquin. “What it showed a lot of courts is that there are certain ways to do things now that might make things a little easier for litigants as well as for attorneys…such as some of these Zoom hearings where people don’t actually have to show up to court. Some of these things where there’s still transparency, but you don’t have people jammed packed in a courtroom I think is probably a good thing.”

Marroquin says the early days of his term will be used to learn as much as possible.

“In speaking with some of the other judges in some of the other courts they’ve all talked about how there’s a little bit of a learning curve,” said Marroquin. “I want to get through that first before I try anything too bold. I think there’s plenty of opportunity to do a lot of cool things for the community, for the kids, especially the high school kids. I plan to be fair. I think that’s what the people want and deserve from the courts – someone who’s fair, someone who treats everyone the same, and also somebody who’s willing to listen.”
Texas Rio Grande Legal Aid (TRLA) is responding by offering free legal services to people who cannot afford an attorney. TRLA services are available in 68 southwestern counties, including all counties along the Texas-Mexico border.

“We cover about 45 different process areas,” said TRLA Director of Communications, Shelby Alexander. “In addition to that, we also operate a public defender program in 10 counties that are close to the Coastal Bend area and in Starr and Willacy counties, representing low-income and indigent people accused of felonies, misdemeanors, and juvenile violations.”

TRLA’s legal services include but are not limited to:
- **Family:** Family violence, child support, visitation, courtroom dates
- **Housing:** Evictions, landlord-tenant conflicts, rental assistance
- **Benefits:** CARES Act, SNAP, social security disability, veterans
- **Employment:** Lost work opportunities, emergency sick leave, unemployment benefits, disabilities (covered in a separate article in this publication)

One of TRLA’s chief concerns is protection for renters under the Coronavirus Aid, Relief, and Economic Security (CARES) Act, which President Trump signed into law in March. The CARES Act offers renters who live at “covered properties” several protections for a temporary period of 120 days. At covered properties, landlords are temporarily prohibited from:
- filing evictions for non-payment of rent, or
- charging late fees or penalties for late payment of rent, for a period of 120 days from March 27 until July 25, 2020.

During this period, landlords cannot issue notices to vacate for nonpayment. Regardless of whether a person lives in a covered property, TRLA urges everyone to continue to pay rent in full and on time, if possible. The CARES Act does not forgive a person’s obligation to pay rent. Tenants who do not pay rent can still be evicted - just not right away. In order to evict someone legally, a landlord must file an eviction case in Justice of the Peace court.

“Some local jurisdictions have extended the eviction moratorium even though the Texas Supreme Court order expired this week,” said Alexander. “We want people to know that under the CARES Act if they have any type of federally subsidized housing or housing that is backed by the federal government they’re protected through late July.”

Alexander acknowledged it can be difficult for a renter to know if their property is covered under the CARES Act. With this in mind,
TRLA has joined with Texas Housers and BASTA Austin to deliver an online map of covered properties. Tenants can access the map at: www.texashousers.org/2020/05/21/ cares-act-tenant-protections-map-tool-trla-basta/

“We know the ones that are probably hardest to determine is if someone has a (housing) voucher,” said Alexander. “If someone puts in their address and it doesn’t show up on the map we want them to know too that if they have a voucher of some sort, then that does mean that they qualify under the CARES Act.” TRLA applicants must meet income, asset, and immigration requirements to qualify for free legal services. Since TRLA offices are temporarily closed due Coronavirus precautions, speaking to a trained intake worker on the phone will be the first step of the process. “People can apply for legal services by calling our hotline,” said Alexander. “It’s open Monday through Friday 9:00 am to 5:00 pm central time, excluding holidays. The number is (888) 988-9996. Our website (www.trla.org) is being updated every day and there’s a lot of information there, too.”
MALDEF:

CHAMPIONING LATINO RIGHTS FOR MORE THAN 50 YEARS

By Benjamin Treviño

Civil rights activism in the Latino community ranges from grassroots organizing at the local level to national organizations which can litigate causes all the way up to the US Supreme Court. When it comes to the latter, the preeminent Latino-rights organization for more than 50 years has been the Mexican American Legal Defense and Educational Fund, commonly known as MALDEF.

The legal defense agency was founded in San Antonio in 1968 by local attorneys Pedro (Pete) Tijerina and Mario Obledo, and a handful of other Latino activists from across the country. MALDEF emerged at the height of the American civil rights movement, and was inspired by the National Association for the Advancement of Colored People (NAACP).

“We were consciously modeled on the NAACP Legal Defense Fund,” said current MALDEF President and General Counsel, Thomas Saenz. “Our goal, from the beginning, has been to use the legal system to promote social change. I think there has been progress since then, but there remain significant challenges.”

Although Obledo and Tijerina headed MALDEF for its first five years, Saenz credits attorney Vilma Socorro Martinez with putting the organization at the forefront of public attention.

“She (Martinez) served for nine years,” Saenz recalled. “She is the leader who very clearly established MALDEF as a force and secured its standing as the leading Latino civil rights organization in the country. Vilma is one of two women who together led the organization for 27 of its 52 years. So I’m very proud that MALDEF has been led for more than half of its existence by women.”

MALDEF’s first legal victory came soon after its founding in 1968. The group went to court on behalf of 192 students at Edcouch-Elsa High School who were expelled for boycotting classes in protest of the school board’s refusal to hear their pleas on educational abuses. A judge agreed that the expulsions violated the students’ constitutional right to protest.

“Education (rights) is one area of law that has always been critically important to MALDEF from its very beginning,” said Saenz. “We have had to combat both blatant and intentional discrimination and we still do. We had to challenge the Texas school financing system half a dozen times throughout our history, because it still results in significant discriminatory differences in resources available in predominantly Latino school districts as well as others.”

One of MALDEF’s most notable and far-reaching victories came in the case of Plyer vs. Doe, which also came out of Texas. The case went to the US Supreme Court in 1992, and resulted in creating a constitutional right for K through 12 students to attend public schools without charge regardless of their immigration status.

“I think it’s quite clear, and the US Supreme Court majority recognized that it would be a real blow not just to the students involved, but to entire communities and society if these children were excluded from public schooling,” said Saenz. “If they weren’t provided an education, they would be hampered in their ability to make contributions to society. So it really is, as the term ‘public education’ suggests, to the benefit of the entire public to ensure that all children are educated.”

MALDEF still has dozens of civil rights cases pending on issues from education, to housing, to immigrant detentions, to the denial of economic stimulus payments to households with mixed citizenship status. Most recently, MALDEF successfully blocked the attempt to include a citizenship question on the 2020 Census forms.

“It was critically important that we pursued the racial intent claim in that lawsuit,” said Saenz. “I think having the prospect of going to court on that, particularly with the newly-revealed evidence from a deceased Republican consultant, is what led the administration to finally, some two weeks later, decide to abandon putting the citizenship question on the census 2020 form.”

Even though MALDEF is best known for its litigation capacity, it also offers scholarships and partners with other organizations on a range of educational and leadership initiatives. More information on the group’s history, its services, and how to contact MALDEF about a potential civil rights violation are available at www.maldef.org. The groups’ email address is info@maldef.org.

“You have to be optimistic to do the work that we do,” said Saenz. “But, it’s an optimism that is grounded in the long history that we have of success. We do recognize that progress comes incrementally, but I think we can point to many instances where our work has contributed to that important incremental progress.”
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