

SPONSORED BY THE  
JUVENILE LAW SECTION OF THE STATE BAR OF TEXAS

18<sup>th</sup> Annual Juvenile Law Conference

# CPS CASE LAW UPDATE

*Lana Shadwick*

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# LANA SHADWICK

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## EDUCATION:

## CURRENT PROFESSIONAL ACTIVITIES

## LAW RELATED PUBLICATIONS AND PRESENTATIONS

*CPS Case Law Update*

*The Indian Child Welfare Act: Meeting The Burden Of Proof And Expert Witness Testimony*

*Significant Termination Cases From The Past Year*

*Case Law Update of Child*

*Abuse/Neglect Cases ,*

*TDFPS Case Law Update*

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*Testifying Bootcamp,*

*“TDPRS &*

*Termination: Case Law Update”*

*Case Law Update*

*Case Law Update*

*“Case Law Update”,*

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*Termination Cases”*

*Appellate Decisions Impacting*

*Post-Judgment And Appellate Issues*

*Case Law Update*

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*Practice And Procedures In The Family*

*Courts*

*Practice And Procedures In The Family*

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*On An Assertion Of Qualified Immunity*

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*Intervention Compel Reformation of Texas Groundwater Law”*

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*In The Interest Of J.H.*





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**2. In the Interest of S.F., M.F., & C.F.,**

**Involving:**

**Factual/Procedural History:**

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**Holding:** \_\_\_\_\_

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**8. *In the Interest of U.P.,***

**Involving:**

*utero*

*in*

**Factual/Procedural History:**

**Holding:** \_\_\_\_\_

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**2. *In re D.S.A.***

**Involving:**

**Factual/Procedural History:**



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**Holding:** \_\_\_\_\_  
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**2. Brazoria County Children's Protective Services v. Kenneth Frederick,**

**Involving:**

**Factual/Procedural History:**

**Holding:** \_\_\_\_\_

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\_\_\_\_\_ *See*

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*In re*  
*A.V. & J.V.*

*Caballero,*

**3. *Darrell Hampton v. TDPRS,***

**Involving:**

**Factual/Procedural History**

**Holding:** \_\_\_\_\_





*Final Order in Suit Affecting the Parent-Child Relationship*

**Holding:** *Lehmann Har-Con Corp.*

*Lehmann*

*Final”  
final  
Lehmann*

H. TFC § 161.004 termination of parental rights after denial of prior petition to terminate)

*In the Interest of M.G.H.,*

Involving:

Facts:

I. TFC § 161.007 (termination when pregnancy results from criminal act)

*In the Interest of A.J.B.,*

Involving:

Factual/Procedural History:

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Holding: \_\_\_\_\_  
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*Green v. TDPRS*

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J. TFC § 161.106 (affidavit of waiver of interest in child)

*In the Interest of an Unborn Child*

Involving: \_\_\_\_\_  
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Factual/Procedural History: \_\_\_\_\_  
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\_\_\_\_\_ *In re*

C.H.

6. *In the Interest of C.N.S.,*

Involving:

*Holley*

Factual/Procedural History:

Holding:

*Holley*

7. *In the Interest of W.S.M.,*

Involving:

Factual/Procedural History:

Holding:

8. *In the Interest of M.G.D.,*

Involving:

Factual/Procedural History:











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12. *In the Interest of B.L.Y.,*

IV. INEFFECTIVE ASSISTANCE OF  
COUNSEL CLAIMS<sup>9</sup>

Involving:

*In re M.S.,*

Involving \_\_\_\_\_

Factual/Procedural History:

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Factual/Procedural History: \_\_\_\_\_

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Holding: \_\_\_\_\_

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*Strickland v. Washington.*

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Holding:

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2. *In the Interest of S.T., O.T.H., G.T.H., & M.L.T.,*

Involving: \_\_\_\_\_

Holding: \_\_\_\_\_

*Casteel*

*Casteel*

*Crown Life Ins. Co. v. Casteel.*

*Casteel*

*Harris County v. Smith*

*Texas Dep't of Human Servs. v. E.B.,*  
*E.B.*

*E.B.*  
*Harris County v. Smith*

*Harris County v. Smith*  
*Casteel*

*Harris County v. Smith*

*E.B*

*Harris County v. Smith.*

*E.B.'s*

*Casteel*

*E.B.,*



*Tex. Dep't of Human Servs. v. E.B.*

**4. Vanessa Carr v. TDPRS,**

**Involving:** \_\_\_\_\_

**Factual/Procedural History:** \_\_\_\_\_

*E.B. Crown Life Insurance Co. v. Casteel*

*Crown Life Insurance Co. v. Casteel*

**Holding:** \_\_\_\_\_

*In re J.F.C.,*

*E.B.*

*E.B.*

*E.B.*

*E.B.*

*J.F.C. Casteel*

*Crown Life Insurance Co. v. Casteel*









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**Holding:**

**VI. TRIAL ISSUES**

**A. Jurisdiction/Venue**

*In Re Zuflacht,*

**Involving:**

*See*

**Factual/Procedural History:**

*See*

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**B. Adversary Hearing (TFC 262.201)**

*In the Interest of E.D.L.*

**Holding:** \_\_\_\_\_  
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**Discussing:** \_\_\_\_\_  
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**Factual/Procedural History:**

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**C. Mandatory Dismissal & Return &  
Monitor Statutes (TFC 263.401-  
.403)**

**1. *In the Interest of M.N.G.***

**Involving:**

**Factual/Procedural History:**

**Holding** \_\_\_\_\_  
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**Holding:** \_\_\_\_\_  
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**F. Discovery**

*In Re Fulgium,*

**Involving**

**Factual/Procedural History:**

**Holding:**

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*See*

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**Holding:** \_\_\_\_\_

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**G. Joint Representation & Motion For Severance**

**1. *In the Interest of B.L.D.,***

**Involving:**

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**Factual/Procedural History:**

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2. *In re J.W.*,

Involving:

Holding:

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H. Bench Warrants

1. *In the Interest of Z.L.T.*,

Involving

Factual/Procedural History:

Holding: \_\_\_\_\_

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2. *Boulden v. Boulden*

Involving:

Factual/Procedural History:

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time being”

Holding: \_\_\_\_\_  
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**I. Preservation Of Error**

**1. *In the Interest of B.L.D.***

Involving: \_\_\_\_\_ c

Holding: \_\_\_\_\_  
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**3. *In the Interest of J.D.S.***

Involving: \_\_\_\_\_  
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Holding: \_\_\_\_\_  
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*Mathews v. Eldridge, M.S.*

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*M.S.*  
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*M.S.*  
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*in the absence of  
ineffective assistance of counsel,*  
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*B.L.D.,*  
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**J. Evidentiary Issues**

**1. Admission Of Pretrial Orders**

*In re M.S.,*

**Involving** \_\_\_\_\_  
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**Factual/Procedural History:** \_\_\_\_\_  
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**Holding:** \_\_\_\_\_  
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**2. TFC § 104.006 (hearsay statement of child abuse victim).**

*In the Interest of P.E. W.,*

**Involving:** \_\_\_\_\_  
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**Holding:** \_\_\_\_\_  
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**b. *In the Interest of A.H.,***

**Involving:** \_\_\_\_\_  
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**Factual/Procedural History:**

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**3. Settlement Agreement**

**a. *In re M.S.,***

**Involving** \_\_\_\_\_  
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**Factual/Procedural History:** \_\_\_\_\_

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**Holding:** \_\_\_\_\_

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**Holding:** \_\_\_\_\_  
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\_\_\_\_\_ *Gammill v. Jack Williams*  
*Chevrolet, Inc. E.I. du Pont de Nemours & Co. v.*  
*Robinson* \_\_\_\_\_ *Nenno v. State*

\_\_\_\_\_ *Nenno*

\_\_\_\_\_ *See In the Interest of J.B.*  
*Nenno*

( \_\_\_\_\_ *ee also In the Interest of G.B.*  
*Nenno*

\_\_\_\_\_ *Daubert v. Merrell Dow Pharm., Inc.*





**Holding:** \_\_\_\_\_

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\_\_\_\_\_ *Kelly v. State*

**Holding:** \_\_\_\_\_

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*Daubert/Kelly*  
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**d. *Hernandez v. State,***

**Involving:** *Kelly v. State*

**Factual/Procedural History:** \_\_\_\_\_

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*Stubbs v. Stubbs*

*Craddock*

*Craddock*

*Craddock*

VII. TFC 263.405 POST-JUDGMENT ISSUES<sup>12</sup>

A. Appellate Jurisdiction

1. *In re Ruben DeLeon*,

Involving: \_\_\_\_\_  
\_\_\_\_\_

Factual/Procedural History: \_\_\_\_\_  
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Holding: \_\_\_\_\_  
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*See In The Interest of S.A.W.*

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*2. In the Interest of W.J.B.*

**Involving:** \_\_\_\_\_

**Factual/Procedural History:**

**Holding:** \_\_\_\_\_

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**5. *In the Interest of T.L.S. & R.L.P.***

Involving: \_\_\_\_\_  
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Factual/Procedural History: \_\_\_\_\_  
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Holding: \_\_\_\_\_  
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**B. Statement Of Points (TFC 263.405(b))<sup>13</sup>**

**1. *In the Interest of J.J.O.***

Discussing: \_\_\_\_\_  
\_\_\_\_\_

<sup>13</sup> See *In The Interest of T.A.C.W.*

Factual/Procedural History:

Holding: \_\_\_\_\_  
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*S.J.G. &*

\_\_\_\_\_  
*S.J.G. In re T.C.*

**2. *Smith v. Texas Department Of Protective & Regulatory Services,***

Discussing: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Factual/Procedural History: \_\_\_\_\_  
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**Holding:** \_\_\_\_\_

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\_\_\_\_\_ *See In re*  
*J.F.C.*

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\_\_\_\_\_ *See In re M.S.*

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\_\_\_\_\_ *In re M.S.*

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\_\_\_\_\_ *3. In the Interest of T.C.,*

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\_\_\_\_\_ **Discussing:**

\_\_\_\_\_ **Factual/Procedural History:**

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\_\_\_\_\_ **Holding:** \_\_\_\_\_

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\_\_\_\_\_ *4. In the Interest of S.J.G.*

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\_\_\_\_\_ **Discussing:**

\_\_\_\_\_ **Factual/Procedural History:** \_\_\_\_\_

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**Holding:** \_\_\_\_\_  
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**Editorial Comment:** \_\_\_\_\_  
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*particular issue*  
\_\_\_\_\_  
*See In re W.J.H.*  
\_\_\_\_\_  
*S.J.G.*  
\_\_\_\_\_  
*absolute*  
*failure to file a statement of points*  
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**C. Indigence Issues (TFC 263.405(e), (g))**

**1. *In the Interest of E.E.R.*,**

**Discussing:**

**Factual/Procedural History:**

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**Holding:** \_\_\_\_\_  
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D. Frivolous Appeal Issues (TFC 263.405(g))

1. *In The Interest Of M.R.R.,*

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2. *Mendoza v. Texas Department Of Protective & Regulatory Services*

Involving:

Factual/Procedural History:

Discussing:

Factual/Procedural History: \_\_\_\_\_  
*pro se*

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Holding: \_\_\_\_\_  
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Holding:

Subsequent History \_\_\_\_\_  
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**2. In the Interest of K.M., J.B.M., J.M.P.,  
& P.G.P.**

**Involving:** \_\_\_\_\_  
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\_\_\_\_\_  
\_\_\_\_\_ *De La Vega v. Taco Cabana,*  
*Inc.*

**3. In the Interest of F.P., A.P., A.P. &  
M.L.,**

**Factual/Procedural History:**

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**Holding:** \_\_\_\_\_  
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\_\_\_\_\_ *De La Vega v. Taco Cabana,*  
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**F. Procedures on Appeal**

*In the Interest of L.L., T.Y. & D.C.,*

Involving: \_\_\_\_\_  
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Factual/Procedural History:

Holding: \_\_\_\_\_  
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**G. Briefing Requirements**

*In the Interest of J.S.*

Involving:

Factual/Procedural History:

Holding: \_\_\_\_\_  
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Subsequent History: \_\_\_\_\_  
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**VIII MISCELLANEOUS CASES**

**A. Adoptions**

*In the Interest of M.P.J., II,*

**Involving:** \_\_\_\_\_

**Factual/Procedural History:**

**Holding:** \_\_\_\_\_











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**Editorial Comment:**

*See*

**Factual/Procedural History:**

*Doncer*

**Holding:**

*Troxel v. Granville*

*Doncer*

*Troxel*

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2. *Sharon Babcock v. TDPRS*

Involving: \_\_\_\_\_  
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Factual/Procedural History

Holding: \_\_\_\_\_  
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3. *Margie Breaux v. TDPRS*

Involving: \_\_\_\_\_  
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Factual/Procedural History:

Holding: \_\_\_\_\_  
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H. TFC 161.211 (Statute of limitations  
on attacking termination cases)

*In The Interest Of J.H.,*

**Involving:**

**Factual/Procedural History:**

**Holding**