

Question

What is a summary judgment, and how is it defined and applied under Texas law?

Answer (Texas)

Short response

In Texas, a summary judgment is a procedural mechanism that allows a court to dispose of a case without a full trial when there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law. Summary judgments in Texas are governed primarily by Rule 166a of the Texas Rules of Civil Procedure and come in two forms: traditional summary judgments under Rule 166a(c) and no-evidence summary judgments under Rule 166a(i).

Summary

Summary judgment is a critical procedural tool in Texas law that enables courts to efficiently resolve cases without the necessity of a full trial when appropriate circumstances exist. Under Texas Rule of Civil Procedure 166a, summary judgment is proper when the movant establishes that there is no genuine issue of material fact and that the movant is entitled to judgment as a matter of law. This procedure serves the important function of eliminating patently unmeritorious claims and untenable defenses, thereby promoting judicial economy and preventing unnecessary litigation.

Texas recognizes two distinct types of summary judgments: traditional summary judgments under Rule 166a(c) and no-evidence summary judgments under Rule 166a(i). In a traditional motion, the burden falls on the movant to conclusively prove all elements of their claim or defense, while in a no-evidence motion, the movant need only allege the absence of evidence supporting an essential element of the nonmovant's claim. Regardless of the type, Texas courts apply a strict standard of review, viewing evidence in the light most favorable to the nonmovant and resolving all doubts in their favor, ensuring that summary judgment is granted only in clear cases where the legal rights of the parties can be determined without the need for factual determinations by a trier of fact.

Definition and Purpose of Summary Judgment

Summary judgment in Texas is a procedural mechanism designed to efficiently resolve cases without the need for a full trial when there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law. As described by Texas courts, the purpose of summary judgment is "to eliminate patently unmeritorious claims and untenable

defenses." *Cove Invs., Inc. v. Manges*, 602 S.W.2d 512, 514 (Tex. 1980), as cited in [Cluett v. Medical Protective Co., 829 S.W.2d 822 \(Tex. App. 1992\)](#).

The Texas Supreme Court has further clarified that summary judgment provides "a method of summarily terminating a case when it clearly appears that only a question of law is involved and that no genuine issue of material fact remains." [Rhone-Poulenc v. Steel, 997 S.W.2d 217, 42 Tex. Sup. Ct. J. 927 \(Tex. 1999\)](#) ("Rule 166a provides a method of summarily terminating a case when it clearly appears that only a question of law is involved and that there is no genuine fact issue.").

Summary judgment is not designed to deprive litigants of their right to trial but rather to facilitate judicial efficiency in cases where trial would be unnecessary. As the Texas Court of Appeals explained, "[t]he function of a summary judgment is not to deprive a litigant of its right to a full hearing on the merits of any real issue of fact but is to eliminate patently unmeritorious claims and untenable defenses." [Cluett v. Medical Protective Co., 829 S.W.2d 822 \(Tex. App. 1992\)](#).

Types of Summary Judgment Under Texas Law

Texas law recognizes two distinct types of summary judgments, each with its own standard and burden of proof: traditional summary judgments under Rule 166a(c) and no-evidence summary judgments under Rule 166a(i).

Traditional Summary Judgment (Rule 166a(c))

The traditional summary judgment is governed by Rule 166a(c) of the Texas Rules of Civil Procedure. As numerous Texas courts have explained, to succeed on a traditional summary judgment motion, "the movant has the burden of showing that there is no genuine issue of material fact and that it is entitled to judgment as a matter of law." [Nixon v. Mr. Property Management Co., 690 S.W.2d 546, 548-49 \(Tex. 1985\)](#), as cited in [Coffeyville Res. Crude Transp. v. Exxonmobil Pipeline Co., 12-23-00276-CV \(Tex. App. Jan 31, 2025\)](#).

This burden is substantial. The Texas Supreme Court has emphasized that "[t]he burden on a movant seeking summary judgment on traditional grounds is great." [Michael v. Dyke, 41 S.W.3d 746 \(Tex. App. 2001\)](#) ("The distinction between a traditional and a no-evidence summary judgment is critical. The burden on a movant seeking summary judgment on traditional grounds is great."). It should be noted that this case was later stated as abrogated by *Thompson v. Bank of Am., N.A.*, 13 F.Supp.3d 636 (N.D. Tex. 2014); however, the abrogation appears related to other aspects of the case and not to its characterization of the burden in traditional summary judgment motions, as this standard continues to be cited in recent Texas cases.

The movant's burden varies depending on whether they are the plaintiff or defendant:

1. When a plaintiff moves for summary judgment on its own claim, "the plaintiff must conclusively prove all essential elements of its cause of action." [Rhône-Poulenc, Inc. v. Steel, 997 S.W.2d 217, 223 \(Tex. 1999\)](#), as cited in [Star Elec., Inc. v. Northpark Office Tower, LP, NO. 01-17-00364-CV \(Tex. App. Jul 14, 2020\)](#).
2. A defendant can obtain summary judgment by either:
 - "[C]onclusively negat[ing] at least one essential element of the nonmovant's cause of action." [Randall's Food Mkts., Inc. v. Johnson, 891 S.W.2d 640, 644 \(Tex. 1995\)](#), as cited in [Coffeyville Res. Crude Transp. v. Exxonmobil Pipeline Co., 12-23-00276-CV \(Tex. App. Jan 31, 2025\)](#).
 - "[C]onclusively establish[ing] each element of an affirmative defense." [Randall's Food Mkts., Inc. v. Johnson, 891 S.W.2d 640, 644 \(Tex. 1995\)](#), as cited in [Coffeyville Res. Crude Transp. v. Exxonmobil Pipeline Co., 12-23-00276-CV \(Tex. App. Jan 31, 2025\)](#).

The standard is conclusive proof—meaning evidence that is so strong that reasonable minds could not differ. As the Texas Court of Appeals stated, "[a] matter is conclusively established if reasonable people could not differ as to the conclusion to be drawn from the evidence." [City of Keller v. Wilson, 168 S.W.3d 802, 816 \(Tex. 2005\)](#), as cited in [Tex. Appleseed v. Spring Branch Indep. Sch. Dist., 388 S.W.3d 775 \(Tex. App. 2012\)](#).

No-Evidence Summary Judgment (Rule 166a(i))

In 1997, Texas amended its summary judgment rule to add a no-evidence provision, Rule 166a(i), which more closely aligns with federal summary judgment practice. This amendment made it "easier to file and, arguably, to obtain summary judgment" in Texas state courts. Summary Judgment Practice (2016-07-27).

Under Rule 166a(i), "a party may move for summary judgment 'on the ground that there is no evidence of one or more essential elements of a claim or defense on which an adverse party would have the burden of proof at trial.'" [Nickerson v. Unique Emp't I, Ltd.](#) (Tex. Court of Appeals, 2024-01-04).

The Texas Supreme Court has characterized a no-evidence summary judgment as "essentially a pretrial directed verdict." [Panhandle Baptist Foundation v. Clodfelter, 54 S.W.3d 66 \(Tex. App. 2001\)](#).

The key distinction between traditional and no-evidence summary judgments lies in the burden of proof:

"The movant has the burden to show that there is no genuine issue of material fact [in a traditional motion], while in a no-evidence summary judgment, the movant asserts that there is no evidence of one or more

essential elements of a claim." [Cook v. Nacogdoches Anesthesia Group, 167 S.W.3d 476 \(Tex. 2005\)](#).

Once a no-evidence motion is properly filed:

"To defeat a no-evidence motion, the non[]movant must produce evidence raising a genuine issue of material fact as to the challenged elements." [Nickerson v. Unique Emp't I, Ltd.](#) (Tex. Court of Appeals, 2024-01-04).

The amount of evidence required to defeat a no-evidence motion is "more than a scintilla of probative evidence." [Cook v. Nacogdoches Anesthesia Group, 167 S.W.3d 476 \(Tex. 2005\)](#) ("More than a scintilla of evidence exists when the evidence rises to a level that would enable reasonable and fair-minded people to differ in their conclusions.").

Combined Motions

Texas law allows parties to file combination motions that assert both traditional and no-evidence grounds for summary judgment:

"A party seeking summary judgment may combine in a single motion a request for summary judgment under the traditional and no-evidence standards." [Binur v. Jacobo, 135 S.W.3d 646, 650-51 \(Tex. 2004\)](#), as cited in [Star Elec., Inc. v. Northpark Office Tower, LP, NO. 01-17-00364-CV \(Tex. App. Jul 14, 2020\)](#).

When a party files such a combined motion, Texas courts generally review the no-evidence grounds first:

"When a party has sought summary judgment on both grounds and the trial court's order does not specify its reasons for granting summary judgment, we first review the propriety of the summary judgment under the no-evidence standard." [Ford Motor Co. v. Ridgway, 135 S.W.3d 598, 600 \(Tex. 2004\)](#), as cited in [Star Elec., Inc. v. Northpark Office Tower, LP, NO. 01-17-00364-CV \(Tex. App. Jul 14, 2020\)](#).

This sequencing makes practical sense, as noted by the Court of Appeals in Nickerson: "If the non[]movant fails to meet its burden under the no-evidence motion, there is no need to address the challenge to the traditional motion as it necessarily fails." [Nickerson v. Unique Emp't I, Ltd.](#) (Tex. Court of Appeals, 2024-01-04).

Standard of Review for Summary Judgment

Texas courts apply a specific standard of review to summary judgment decisions. All summary judgment decisions are reviewed de novo, meaning the appellate court gives no deference to the trial court's ruling. As the Texas Supreme Court has consistently stated:

"We review de novo a trial court's ruling on a motion for summary judgment." [Mann Frankfort Stein & Lipp Advisors, Inc. v. Fielding, 289 S.W.3d 844, 848 \(Tex. 2009\)](#), as cited in [Nguyen v. Watts, 605 S.W.3d 761 \(Tex. App. 2020\)](#).

In conducting this de novo review, Texas courts apply a consistent standard that strongly favors the nonmovant:

1. Evidence favorable to the nonmovant is taken as true.
2. Every reasonable inference is indulged in favor of the nonmovant.
3. Any doubts are resolved in favor of the nonmovant.

This standard has been articulated in numerous decisions. For example, as the Texas Supreme Court explained:

"We review summary judgment evidence 'in the light most favorable to the party against whom the summary judgment was rendered, crediting evidence favorable to that party if reasonable jurors could, and disregarding contrary evidence unless reasonable jurors could not.'" [Seabright Ins. Co. v. Lopez, 465 S.W.3d 637 \(Tex. 2015\)](#).

Similarly, the Texas Court of Appeals noted:

"To determine if the non-movant raised a fact issue, we review the evidence in the light most favorable to the non-movant, crediting favorable evidence if reasonable jurors could do so, and disregarding contrary evidence unless reasonable jurors could not." [Hawthorne v. Guenther, 461 S.W.3d 218, 221 \(Tex. App. 2015\)](#).

The only situation where this standard differs slightly is in the context of cross-motions for summary judgment, where both parties have moved for summary judgment on the same issues. In such cases:

"When both sides move for summary judgment and the trial court grants one motion and denies the other, we review the summary judgment evidence presented by both sides and determine all questions presented." [Mann Frankfort Stein & Lipp Advisors, Inc. v. Fielding, 289 S.W.3d 844, 848 \(Tex. 2009\)](#).

In these situations, the appellate court "render[s] the judgment as the trial court should have rendered." [Comm'r's Court of Titus County v. Agan, 940 S.W.2d 77, 81 \(Tex. 1997\)](#), as cited in [Mann Frankfort Stein & Lipp Advisors, Inc. v. Fielding, 289 S.W.3d 844, 848 \(Tex. 2009\)](#).

Procedural Requirements and Considerations

Response to Summary Judgment Motion

Once a movant has filed a summary judgment motion, the burden shifts to the nonmovant to respond and raise fact issues that would preclude summary judgment:

"Once the movant establishes a right to summary judgment, the nonmovant has the burden to respond to the motion and present to the trial court any issues that would preclude summary judgment." [City of Houston v. Clear Creek Basin Auth., 589 S.W.2d 671, 678-79 \(Tex. 1979\)](#), as cited in

[Coffeyville Res. Crude Transp. v. Exxonmobil Pipeline Co., 12-23-00276-CV](#)
(Tex. App. Jan 31, 2025).

However, it's important to note that this burden-shifting only occurs after the movant has satisfied their initial burden. As the Texas Supreme Court emphasized:

"The nonmovant has no burden to respond to a summary judgment motion unless the movant conclusively establishes its cause of action or defense." [Rhone-Poulenc v. Steel, 997 S.W.2d 217, 42 Tex. Sup. Ct. J. 927 \(Tex. 1999\)](#).

This is a crucial consideration because summary judgment cannot be granted by default simply because the nonmovant failed to respond:

"The trial court may not grant summary judgment by default because the nonmovant did not respond to the summary judgment motion when the movant's summary judgment proof is legally insufficient." [City of Houston v. Clear Creek Basin Auth., 589 S.W.2d 671, 678 \(Tex. 1979\)](#), as cited in [Rhone-Poulenc v. Steel, 997 S.W.2d 217, 42 Tex. Sup. Ct. J. 927 \(Tex. 1999\)](#).

The Texas Court of Appeals in [Michael v. Dyke](#) further emphasized this principle, stating that "[a] summary judgment motion must stand on its own merits" and even without a response, "the movant still must establish his entitlement to a summary judgment on the issues expressly presented to the trial court by conclusively proving all essential elements of his cause of action or defense as a matter of law." [Michael v. Dyke, 41 S.W.3d 746 \(Tex. App. 2001\)](#). As noted earlier, this case was subsequently abrogated by [Thompson v. Bank of Am., N.A., 13 F.Supp.3d 636 \(N.D. Tex. 2014\)](#), but the principle regarding the movant's burden remains valid in Texas summary judgment practice.

Cross-Motions for Summary Judgment

When both parties file motions for summary judgment on the same issues, special considerations apply:

"When both parties move for summary judgment, each party must carry its own burden, and neither can prevail because of the failure of the other to discharge its burden." [Cluett v. Medical Protective Co., 829 S.W.2d 822 \(Tex. App. 1992\)](#).

In reviewing cross-motions for summary judgment:

"When counter motions for summary judgment are properly before the trial court at the time judgment is rendered, all the evidence accompanying both motions should be considered in deciding whether to grant either party's motion." [Perkins v. Groff, 936 S.W.2d 661 \(Tex. App. 1996\)](#).

The standard of review in such cases requires that "we must indulge all reasonable inferences and resolve all doubts in favor of the losing party." [Perkins v. Groff, 936 S.W.2d 661 \(Tex. App. 1996\)](#).

The Written Motion Requirement

Texas summary judgment practice requires that all theories in support of or opposition to summary judgment be presented in writing:

"[A]ll theories in support of a summary judgment, as well as all opposing issues, must be presented in writing to the court at the hearing." [Casso v. Brand, 776 S.W.2d 551 \(Tex. 1989\)](#).

It should be noted that Casso v. Brand was subsequently overruled by Steve Childers v. King Ranch, Inc., No. 13-03-006-CV (TX 4/7/2005), but not on this particular point regarding the requirement for written presentation of theories.

Material Fact Issues

Central to summary judgment practice is the concept of "genuine issues of material fact." For summary judgment to be proper, there must be no genuine issue of material fact that would require resolution by a trier of fact.

The Texas courts have provided guidance on what constitutes a material fact issue. According to the Texas Court of Appeals:

"Evidence raises a genuine issue of material fact if reasonable and fair-minded jurors could differ in their conclusions in light of all the evidence presented." [Goodyear Tire & Rubber Co. v. Mayes, 236 S.W.3d 754, 755 \(Tex. 2007\)](#), as cited in [Martinez v. Martinez, NUMBER 13-19-00518-CV \(Tex. App. Oct 01, 2020\)](#).

In the context of no-evidence motions, the nonmovant must produce "more than a scintilla of probative evidence to raise a genuine issue of material fact." [King Ranch, Inc. v. Chapman, 118 S.W.3d 742, 751 \(Tex. 2003\)](#), as cited in [Cook v. Nacogdoches Anesthesia Group, 167 S.W.3d 476 \(Tex. 2005\)](#). The Texas Supreme Court clarifies that "[m]ore than a scintilla of evidence exists when the evidence rises to a level that would enable reasonable and fair-minded people to differ in their conclusions." [King Ranch, Inc. v. Chapman, 118 S.W.3d 742, 751 \(Tex. 2003\)](#), as cited in [Cook v. Nacogdoches Anesthesia Group, 167 S.W.3d 476 \(Tex. 2005\)](#).

Evolution of Summary Judgment in Texas

Summary judgment practice in Texas has evolved significantly over time. As noted in the secondary source on summary judgment practice, there has been "an increase in the use of summary judgments in Texas state courts" in recent years. Summary Judgment Practice (2016-07-27).

This increase is attributed largely to a 1997 amendment to the Texas summary judgment rule that added the no-evidence provision in Rule 166a(i):

"Prior to 1997, many attorneys perceived, accurately or not, that it was easier to get summary judgment in federal court than state court. In 1997, the state summary judgment rule was amended to conform with the burden of proof under the federal rules. Therefore, there may no longer be a significant difference between filing summary judgment in federal court and filing in state court. The amendment to the state summary judgment rule has made it easier to file and, arguably, to obtain summary judgment." Summary Judgment Practice (2016-07-27).

This amendment moved Texas summary judgment practice closer to the federal standard, which some scholars and practitioners believe has made summary judgment more accessible in Texas state courts.

Exceptional Cases: Legal Issues Only

In some instances, a summary judgment might be appropriate not because facts are undisputed, but because the case presents only legal questions:

"If the issue raised is based upon undisputed and unambiguous facts, then the reviewing court may determine the question presented as a matter of law." [Cook v. Nacogdoches Anesthesia Group, 167 S.W.3d 476 \(Tex. 2005\)](#).

Similarly, an early Texas case explained that one purpose of summary judgment is "to provide a method of summarily terminating a case when it clearly appears that only a question of law is involved and that no genuine issue of material fact remains." Gaines v. Hamman, 163 Tex. 618, 626, 358 S.W.2d 557, 563 (1962), as cited in [Cluett v. Medical Protective Co., 829 S.W.2d 822 \(Tex. App. 1992\)](#).

Conclusion

Summary judgment in Texas is a procedural mechanism allowing courts to dispose of cases without a full trial when there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law. Texas recognizes two types of summary judgments: traditional summary judgments under Rule 166a(c) and no-evidence summary judgments under Rule 166a(i).

In traditional summary judgments, the movant bears the considerable burden of conclusively establishing that no genuine issue of material fact exists and that they are entitled to judgment as a matter of law. A defendant can succeed by either negating at least one essential element of the plaintiff's claim or by conclusively establishing all elements of an affirmative defense. A plaintiff must conclusively prove all essential elements of their cause of action.

No-evidence summary judgments require the movant to merely point out the absence of evidence supporting an essential element of the nonmovant's claim, after which the burden shifts to the nonmovant to produce more than a scintilla of probative evidence raising a genuine issue of material fact.

Regardless of the type of summary judgment motion, Texas courts apply a consistent standard of review that strongly favors the nonmovant by taking evidence favorable to them as true, indulging every reasonable inference in their favor, and resolving all doubts in their favor.

The 1997 addition of the no-evidence summary judgment provision has brought Texas practice closer to the federal standard and has led to increased use of summary judgments in Texas state courts. This evolution reflects a balance between the right to trial and judicial efficiency, consistent with the fundamental purpose of summary judgment: "to eliminate patently unmeritorious claims and untenable defenses" while preserving genuine disputes for proper resolution through the trial process.

Legal Authorities

[Rivera v. Countrywide Home Loans, Inc., 262 S.W.3d 834 \(Tex. App. 2008\)](#)

Texas Court of Appeals

Extract

Countrywide, Landsafe, and Burchett moved for traditional and no-evidence summary judgments. See TEX.R. CIV. P. 166a(c) and (i). Burchett moved for traditional summary judgment on the grounds that (i) limitations barred the Riveras' common law claims and (ii) Burchett made no false representation. Burchett also moved for no-evidence summary judgment on the ground the Riveras had not sustained any damages. Countrywide and Landsafe jointly moved for traditional summary judgment on the grounds the statute of limitations barred the Riveras' common law claims as well as the two claims against Countrywide and for a no-evidence summary judgment on the ground the Riveras had not sustained any damages. The trial judge granted Countrywide and Landsafe's traditional and no-evidence motions for summary judgment and granted Burchett's motion for summary judgment 'in its entirety.'

Summary

The passage provides insight into how summary judgments are applied under Texas law, specifically referencing the Texas Rules of Civil Procedure 166a(c) and (i). It illustrates the grounds on which traditional and no-evidence summary judgments can be sought, such as statute of limitations and lack of evidence for damages. The case demonstrates the application of these rules in a real-world scenario, showing how the court evaluates and grants summary judgments based on the presented grounds.

[Cade v. Stone, NUMBER 13-12-00630-CV \(Tex. App. Jun 13, 2013\)](#)

Texas Court of Appeals

Extract

Because Cade established his entitlement to judgment as a matter of law and Stone did not, the trial court should have rendered summary judgment in Cade's favor. We therefore reverse the judgment of the trial court and render judgment, as requested by Cade, that the domesticated 1993 judgment is revived.

Summary

A summary judgment in Texas is rendered when one party establishes their entitlement to judgment as a matter of law, and the opposing party fails to do so. In this case, Cade was entitled to summary judgment because he established his legal right to the judgment, and Stone did not present a valid defense. The court reversed the trial court's decision and rendered summary judgment in favor of Cade, reviving the domesticated judgment.

[Martinez v. Martinez, NUMBER 13-19-00518-CV \(Tex. App. Oct 01, 2020\)](#)

Texas Court of Appeals

Extract

In a traditional motion for summary judgment, the movant has the burden of showing no genuine issue of material fact exists and that it is entitled to judgment as a matter of law. TEX. R. CIV. P. 166a(c); Katy Venture, 469 S.W. 3d at 163. Evidence raises a genuine issue of material fact if reasonable and fair-minded jurors could differ in their conclusions in light of all the evidence presented. Goodyear Tire & Rubber Co. v. Mayes, 236 S.W.3d 754, 755 (Tex. 2007) (per curiam). Once the moving party produces evidence establishing its right to summary judgment as a matter of law, the burden shifts to the nonmovant to produce evidence that raises a genuine issue of material fact. Walker v. Harris, 924 S.W.2d 375, 376 (Tex. 1996). To determine if the nonmovant raised a fact issue, we review the evidence in the light most favorable to the nonmovant, crediting favorable evidence if reasonable jurors could do so, and disregarding contrary evidence unless reasonable jurors could not. Hawthorne v. Guenther, 461 S.W.3d 218, 221 (Tex. App.—San Antonio 2015, pet. denied). The function of a summary judgment is not to deprive a litigant of the right to a full hearing on the merits of any real issue, but to eliminate patently unmeritorious claims and untenable defenses.

Summary

Detailed explanation of the process and standards for granting a summary judgment in Texas. It outlines the burden of proof on the movant, the role of the nonmovant, and the purpose of summary judgment in the legal process. This information is applicable to any case involving summary judgment in Texas.

[Casso v. Brand, 776 S.W.2d 551 \(Tex. 1989\)](#)

Texas Supreme Court

Extract

Rule 166a of the Texas Rules of Civil Procedure provides that summary judgment 'shall be rendered forthwith if ... the moving party is entitled to judgment as a matter of law on the issues expressly set out in the motion or in an answer or any other response.' (Emphasis added.) Thus, all theories in support of a summary judgment, as well as all opposing issues, must be presented in writing to the court at the hearing.

Summary

Direct reference to Rule 166a of the Texas Rules of Civil Procedure, which outlines the conditions under which a summary judgment can be granted. It emphasizes that the moving party must be entitled to judgment as a matter of law based on the issues explicitly set out in the motion or response. This is a general rule applicable to summary judgment procedures in Texas.

[Madison v. Williamson, 241 S.W.3d 145 \(Tex. App. 2007\)](#)

Texas Court of Appeals

Extract

Texas Rule of Civil Procedure 166a(i) provides: After adequate time for discovery, a party without presenting summary judgment evidence may move for summary judgment on the ground that there is no evidence of one or more essential elements of a claim or defense on which an adverse party would have the burden of proof at trial. The motion must state the elements as to which there is no evidence. The court must grant the motion unless the respondent produces summary judgment evidence raising a genuine issue of material fact.

Summary

Direct definition and application of a no-evidence summary judgment under Texas law. It explains that after adequate time for discovery, a party can move for summary judgment if there is no evidence of essential elements of a claim or defense. The court is required to grant the motion unless the opposing party presents evidence that raises a genuine issue of material fact. This is a general rule applicable to civil cases in Texas.

[Goffney v. O'Quinn, No. 01-02-00192-CV \(TX 10/28/2004\), No. 01-02-00192-CV. \(Tex. Oct 28, 2004\)](#)

Texas Supreme Court

Extract

Summary judgment under rule 166a(c) is proper only when a movant establishes that there is no genuine issue of material fact and that he is entitled to judgment as a matter of law. Tex. R. Civ. P. 166a(c); Randall's Food Mkts., Inc. v. Johnson, 891 S.W.2d 640, 644 (Tex. 1995). A defendant is entitled to summary judgment if the evidence disproves as a matter of law at least one element of each of the plaintiff's causes of action or if it conclusively establishes all elements of an affirmative defense. Johnson, 891 S.W.2d at 644.

Summary

Definition and application of summary judgment under Texas law, specifically referencing Texas Rule of Civil Procedure 166a(c). It explains that summary judgment is appropriate when there is no genuine issue of material fact and the movant is entitled to judgment as a matter of law. It further clarifies that a defendant can achieve summary judgment by disproving at least one element of the plaintiff's causes of action or by conclusively establishing all elements of an affirmative defense. This information is applicable to any case involving summary judgment in Texas.

[Malcomson Road Utility Dist. v. Newsom, 171 S.W.3d 257 \(Tex. 2005\)](#)

Texas Supreme Court

Extract

Summary judgment under rule 166a(c) is proper only when a movant establishes that there is no genuine issue of material fact and that he is entitled to judgment as a matter of law. Randall's Food Mkts., Inc. v. Johnson, 891 S.W.2d 640, 644 (Tex. 1995). A defendant is entitled to summary judgment if the evidence disproves as a matter of law at least one element of each of the plaintiff's causes of action or if it conclusively establishes all elements of an affirmative defense.

Summary

Clear definition of when summary judgment is appropriate under Texas law, specifically under Rule 166a(c). It explains that summary judgment is proper when there is no genuine issue of material fact and the movant is entitled to judgment as a matter of law. This is a general standard applicable to summary judgment motions in Texas courts.

[Nguyen v. Watts, 605 S.W.3d 761 \(Tex. App. 2020\)](#)

Texas Court of Appeals

Extract

We review de novo a trial court's ruling on a motion for summary judgment. Mann Frankfort Stein & Lipp Advisors, Inc. v. Fielding, 289 S.W.3d 844, 848 (Tex. 2009). A party moving for traditional summary judgment, as here, has the burden to prove that there is no genuine issue of material fact and that the movant is entitled to judgment as a matter of law. TEX. R. CIV. P. 166a(c); SeaBright Ins. Co. v. Lopez, 465 S.W.3d 637, 641 (Tex. 2015). A defendant is entitled to summary judgment if it conclusively negates an essential element of the plaintiff's case or conclusively establishes all elements of an affirmative defense. Cathey v. Booth, 900 S.W.2d 339, 341 (Tex. 1995).

Summary

Clear definition and application of summary judgment under Texas law. It explains that a party moving for a traditional summary judgment must prove that there is no genuine issue of material fact and that they are entitled to judgment as a matter of law. This is in accordance with Texas Rule of Civil Procedure 166a(c). Additionally, it states that a defendant can achieve summary judgment by conclusively negating an essential element of the plaintiff's case or by conclusively establishing all elements of an affirmative defense. This information is applicable to any case involving summary judgment in Texas.

[Star Elec., Inc. v. Northpark Office Tower, LP, NO. 01-17-00364-CV \(Tex. App. Jul 14, 2020\)](#)

Texas Court of Appeals

Extract

A party seeking summary judgment may combine in a single motion a request for summary judgment under the traditional and no-evidence standards. Binur v. Jacobo, 135 S.W.3d 646, 650-51 (Tex. 2004); see also TEX. R. CIV. P. 166a(c), (i). When a party has sought summary judgment on both grounds and the trial court's order does not specify its reasons for granting summary judgment, we first review the propriety of the summary judgment under the no-evidence standard. See Ford Motor Co. v. Ridgway, 135 S.W.3d 598, 600 (Tex. 2004); see also TEX. R. CIV. P. 166a(i). ... In a traditional summary-judgment motion, the movant has the burden to show that no genuine issue of material fact exists and the trial court should grant judgment as a matter of law. See TEX. R. CIV. P. 166a(c); KPMG Peat Marwick v. Harrison Cty. Hous. Fin. Corp., 988 S.W.2d 746, 748 (Tex. 1999). When a plaintiff moves for summary judgment on its own claim, the plaintiff

must conclusively prove all essential elements of its cause of action. Rhône-Poulenc, Inc. v. Steel, 997 S.W.2d 217, 223 (Tex. 1999).

Summary

Clear explanation of how summary judgment is defined and applied under Texas law. It describes the two standards for summary judgment: traditional and no-evidence. Under the traditional standard, the movant must show that there is no genuine issue of material fact and that they are entitled to judgment as a matter of law. Under the no-evidence standard, the court first reviews the propriety of the summary judgment when the order does not specify reasons. This information is applicable to any case involving summary judgment in Texas.

[Walker v. Harris, 924 S.W.2d 375 \(Tex. 1996\)](#)

Texas Supreme Court

Extract

To obtain a summary judgment, a defendant must either negate at least one element of the plaintiff's theory of recovery, 'Moore' Burger, Inc. v. Phillips Petroleum Co., 492 S.W.2d 934, 936 (Tex. 1972), or plead and conclusively prove each element of an affirmative defense. City of Houston v. Clear Creek Basin Auth., 589 S.W.2d 671, 678 (Tex. 1979). After the defendant produces evidence entitling it to summary judgment, the burden shifts to the plaintiff to present evidence creating a fact issue. 'Moore' Burger, 492 S.W.2d at 936-37. We take all evidence favorable to the nonmovant as true and indulge every reasonable inference in the nonmovant's favor. Nixon v. Mr. Property Management Co., 690 S.W.2d 546, 549 (Tex. 1985).

Summary

The passage from the Walker v. Harris case provides a clear explanation of how summary judgment is defined and applied under Texas law. It outlines the requirements for a defendant to obtain a summary judgment, which include negating an element of the plaintiff's case or proving an affirmative defense. It also describes the burden-shifting process, where the plaintiff must then present evidence to create a fact issue. The passage further explains the standard of review, which involves taking all evidence favorable to the nonmovant as true and making reasonable inferences in their favor. This information is applicable to any case involving summary judgment in Texas, making it generally applicable.

[Cathey v. Booth, 900 S.W.2d 339 \(Tex. 1995\)](#)

Texas Supreme Court

Extract

To prevail on a motion for summary judgment, a movant must establish that there is no genuine issue as to any material fact and that the movant is entitled to judgment as a matter of law. TEX.R.CIV.P. 166a(c). A defendant who conclusively negates at least one of the essential elements of each of the plaintiff's causes of action or who conclusively establishes all of the elements of an affirmative defense is entitled to summary judgment. Wornick Co. v. Casas, 856 S.W.2d 732, 733 (Tex.1993); Montgomery v. Kennedy, 669 S.W.2d 309, 310-11 (Tex.1984). In reviewing a summary judgment, we must accept as true evidence in favor of the nonmovant, indulging every reasonable inference and resolving all doubts in the nonmovant's favor.

Summary

Clear definition and application of summary judgment under Texas law. It specifies the requirements for a movant to prevail on a motion for summary judgment, which includes establishing that there is no genuine issue of material fact and that the movant is entitled to judgment as a matter of law. It also explains that a defendant can achieve summary judgment by negating essential elements of the plaintiff's case or establishing an affirmative defense. The passage further outlines the standard of review, emphasizing that evidence must be viewed in the light most favorable to the nonmovant.

[Hawthorne v. Guenther, 461 S.W.3d 218 \(Tex. App. 2015\)](#)

Texas Court of Appeals

Extract

A party moving for traditional summary judgment bears the burden of showing that no genuine issue of material fact exists and that he is entitled to judgment as a matter of law. Tex.R.Civ. P. 166a(c). To determine if the non-movant raised a fact issue, we review the evidence in the light most favorable to the non-movant, crediting favorable evidence if reasonable jurors could do so, and disregarding contrary evidence unless reasonable jurors could not.

Summary

Definition and application of summary judgment under Texas law. It explains that the party moving for a traditional summary judgment must demonstrate that there is no genuine issue of material fact and that they are entitled to judgment as a matter of law. The passage also describes the standard for reviewing evidence, which involves viewing it in the light most favorable to the non-movant and crediting favorable evidence if reasonable jurors could do so.

[Goodyear Tire and Rubber Co. v. Mayes, 236 S.W.3d 754 \(Tex. 2007\)](#)

Texas Supreme Court

Extract

An appellate court reviewing a summary judgment must consider whether reasonable and fair-minded jurors could differ in their conclusions in light of all of the evidence presented. See Wal-Mart Stores, Inc. v. Spates, 186 S.W.3d 566, 568 (Tex.2006); City of Keller v. Wilson, 168 S.W.3d 802, 822-24 (Tex.2005).

Summary

The passage provides insight into how summary judgments are reviewed by appellate courts in Texas. It emphasizes that the review must consider whether reasonable and fair-minded jurors could differ in their conclusions based on the evidence presented. This indicates that summary judgment is appropriate when there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law. The passage references other Texas cases to support this standard, suggesting its broad applicability in Texas law.

[Randall's Food Markets, Inc. v. Johnson, 891 S.W.2d 640 \(Tex. 1995\)](#)

Texas Supreme Court

Extract

To prevail on a motion for summary judgment, a movant must establish that there is no genuine issue as to any material fact and that he or she is entitled to judgment as a matter of law. TEX.R.CIV.P. 166a(c). A defendant who conclusively negates at least one of the essential elements of a cause of action is entitled to summary judgment as to that cause of action. Wornick Co. v. Casas, 856 S.W.2d 732, 733 (Tex.1993); Gibbs v. General Motors Corp., 450 S.W.2d 827, 828 (Tex.1970). Likewise, a defendant who conclusively establishes each element of an affirmative defense is entitled to summary judgment. In reviewing a summary judgment, we must accept as true evidence in favor of the non-movant, indulging every reasonable inference and resolving all doubts in his or her favor.

Summary

Clear definition and application of summary judgment under Texas law. It explains the requirements for a movant to prevail on a motion for summary judgment, including the absence of any genuine issue of material fact and entitlement to judgment as a matter of law. It also outlines the conditions under which a defendant can be granted summary judgment, either by negating an essential element of the plaintiff's cause of action or by

establishing an affirmative defense. The passage further describes the standard of review for summary judgments, emphasizing the need to view evidence in the light most favorable to the non-movant.

[Seabright Ins. Co. v. Lopez, 465 S.W.3d 637 \(Tex. 2015\)](#)

Texas Supreme Court

Extract

A party moving for traditional summary judgment has the burden to prove that there is no genuine issue of material fact and that it is entitled to judgment as a matter of law. Tex. R. Civ. P. 166a(c) ; Mann Frankfort Stein & Lipp Advisors, Inc. v. Fielding, 289 S.W.3d 844, 848 (Tex.2009). We review summary judgment evidence 'in the light most favorable to the party against whom the summary judgment was rendered, crediting evidence favorable to that party if reasonable jurors could, and disregarding contrary evidence unless reasonable jurors could not.'

Summary

Clear definition and application of summary judgment under Texas law. It explains the burden of proof on the party moving for summary judgment and the standard of review for summary judgment evidence. This is applicable to any case in Texas where a summary judgment is being considered.

[Mann Frankfort Stein & Lipp v. Fielding, 289 S.W.3d 844 \(Tex. 2009\)](#)

Texas Supreme Court

Extract

We review a summary judgment de novo. Provident Life & Accident Ins. Co. v. Knott, 128 S.W.3d 211, 215 (Tex.2003). We review the evidence presented in the motion and response in the light most favorable to the party against whom the summary judgment was rendered, crediting evidence favorable to that party if reasonable jurors could, and disregarding contrary evidence unless reasonable jurors could not. See City of Keller v. Wilson, 168 S.W.3d 802, 827 (Tex.2005); Johnson v. Brewer & Pritchard, P.C., 73 S.W.3d 193, 208 (Tex.2002). The party moving for traditional summary judgment bears the burden of showing no genuine issue of material fact exists and it is entitled to judgment as a matter of law. TEX.R. CIV. P. 166a(c); see also Knott, 128 S.W.3d at 216. When both sides move for summary judgment and the trial court grants one motion and denies the other, we review the summary judgment evidence presented by both sides and determine all questions presented. Comm'r's Court of Titus County v. Agan, 940 S.W.2d 77, 81 (Tex. 1997). In such a situation, we render the judgment as the trial court should have rendered. Id.

Summary

Detailed explanation of how summary judgments are reviewed and applied under Texas law. It explains that summary judgments are reviewed *de novo*, meaning the appellate court considers the matter anew, as if no decision had been previously made. The evidence is reviewed in the light most favorable to the non-moving party. The burden is on the party moving for summary judgment to demonstrate that there is no genuine issue of material fact and that they are entitled to judgment as a matter of law. This is in accordance with Texas Rule of Civil Procedure 166a(c). The passage also explains the procedure when both parties file for summary judgment, indicating that the court reviews evidence from both sides and renders the appropriate judgment.

[Southwestern Elec. Power Co. v. Grant, 73 S.W.3d 211 \(Tex. 2002\)](#)

Texas Supreme Court

Extract

To prevail on a traditional summary-judgment motion, a movant must show that no genuine issue of material fact exists and that it is entitled to judgment as a matter of law. Tex.R. Civ. P. 166a(c). A movant who conclusively negates at least one essential element of a cause of action is entitled to summary judgment on that claim. Elliott-Williams Co. v. Diaz, 9 S.W.3d 801, 803 (Tex.1999). When reviewing a summary judgment, we take as true all evidence favorable to the nonmovant, and we indulge every reasonable inference and resolve any doubts in the nonmovant's favor. Science Spectrum, Inc. v. Martinez, 941 S.W.2d 910, 911 (Tex.1997); Friendswood Dev. Co. v. McDade & Co., 926 S.W.2d 280, 282 (Tex.1996). To prevail on a no-evidence summary-judgment motion, a movant must allege that there is no evidence of an essential element of the adverse party's claim. Tex.R. Civ. P. 166a(i). Although the nonmoving party is not required to marshal its proof, it must present evidence that raises a genuine fact issue on the challenged elements. See Tex.R. Civ. P. 166a, notes and cmts.

Summary

Detailed explanation of the requirements for both traditional and no-evidence summary judgment motions under Texas law. It specifies the conditions under which a movant can prevail in each type of motion and outlines the standards for reviewing summary judgments. This information is directly relevant to understanding how summary judgments are defined and applied in Texas.

[Nixon v. Mr. Property Management Co., Inc., 690 S.W.2d 546 \(Tex. 1985\)](#)

Texas Supreme Court

Extract

The standards for reviewing a motion for summary judgment are well established. As mandated by this court, they are: 1. The movant for summary judgment has the burden of showing that there is no genuine issue of material fact and that it is entitled to judgment as a matter of law. 2. In deciding whether there is a disputed material fact issue precluding summary judgment, evidence favorable to the non-movant will be taken as true. 3. Every reasonable inference must be indulged in favor of the non-movant and any doubts resolved in its favor.

Summary

Clear definition and application of summary judgment under Texas law. It outlines the standards for reviewing a motion for summary judgment, emphasizing the burden on the movant to show no genuine issue of material fact and entitlement to judgment as a matter of law. It also highlights the approach of taking evidence favorable to the non-movant as true and resolving doubts in favor of the non-movant. This is a general principle applicable to summary judgment procedures in Texas.

[City of Keller v. Wilson, 168 S.W.3d 802, 48 Tex. Sup. Ct. J. 848 \(Tex. 2005\)](#)

Texas Supreme Court

Extract

The one exception in which both standards do not expressly appear is in the scope of review for summary judgments. Here, there is only one standard — a reviewing court must examine the entire record in the light most favorable to the nonmovant, indulging every reasonable inference and resolving any doubts against the motion. Reviewing courts do not disregard the evidence supporting the motion; if they did, all summary judgments would be reversed. In practice, however, a different scope of review applies when a summary judgment motion is filed without supporting evidence. In such cases, evidence supporting the motion is effectively disregarded because there is none; under the rule, it is not allowed. Thus, although a reviewing court must consider all the summary judgment evidence on file, in some cases that review will effectively be restricted to the evidence contrary to the motion.

Summary

The passage from the City of Keller v. Wilson case provides insight into how summary judgments are reviewed under Texas law. It specifies that the standard for reviewing summary judgments is to examine the entire record in the light most favorable to the nonmovant, indulging every reasonable inference and resolving any doubts against the motion. This indicates that the court must consider all evidence on file, but if a motion is filed without

supporting evidence, the review is effectively limited to the evidence contrary to the motion. This standard is generally applicable to summary judgment reviews in Texas.

[Maxwell v. Maxwell, 292 S.W.2d 368 \(Tex. Ct. App. 1956\)](#)

Texas Civil Court of Appeals

Extract

The purpose of Rule 166-A, Texas Rules of Civil Procedure, providing for summary judgment is to expedite the final determination of a case where there are no material issues of fact. If, upon a consideration of the affidavits and other proof offered, there are no disputed facts, summary judgment is in order. ... The purpose of summary judgment procedure is that the court may look through and beyond the pleadings and even though a petition may state a cause of action, nevertheless if, on a motion for summary judgment, proof fails to show any genuine issue regarding a material fact, then the granting of summary judgment is proper. ... In a hearing on the motion for summary judgment the function of the trial court is to determine if any genuine issues of material facts exist.

Summary

Clear definition and application of summary judgment under Texas law. It explains that the purpose of summary judgment is to expedite the resolution of cases where no material factual disputes exist. The court's role is to determine if any genuine issues of material fact are present. If none exist, summary judgment is appropriate. This is a general principle applicable to all cases in Texas where summary judgment is sought.

[Michael v. Dyke, 41 S.W.3d 746 \(Tex. App. 2001\)](#)

Texas Court of Appeals

Extract

The distinction between a traditional and a no-evidence summary judgment is critical. The burden on a movant seeking summary judgment on traditional grounds is great. The movant must conclusively establish that no genuine issue of material fact exists and that the movant is, therefore, entitled to judgment as a matter of law. Tex. R. Civ. P. 166a(c). A summary judgment motion must stand on its own merits. *City of Houston v. Clear Creek Basin Auth.*, 589 S.W.2d 671, 678 (Tex. 1979). Even in the absence of a response from the nonmovant, in order to be entitled to judgment, 'the movant still must establish his entitlement to a summary judgment on the issues expressly presented to the trial court by conclusively proving all essential elements of his cause of action or defense as a matter of law.'

Summary

Clear distinction between traditional and no-evidence summary judgments under Texas law. It explains the burden on the movant in a traditional summary judgment, which requires conclusively establishing that no genuine issue of material fact exists. This is a critical aspect of how summary judgments are defined and applied in Texas, as it outlines the requirements and standards that must be met for a summary judgment to be granted.

[Leyva v. Ace Am. Ins. Co., 330 S.W.3d 6 \(Tex. App. 2010\)](#)

Texas Court of Appeals

Extract

The standard of review for traditional summary judgment under Tex.R.Civ.P. 166a(c) is well established. Nixon v. Mr. Property Management Company, Inc., 690 S.W.2d 546, 548 (Tex.1985). The moving party carries the burden of showing there is no genuine issue of material fact and it is entitled to judgment as a matter of law. Diversicare General Partner, Inc. v. Rubio, 185 S.W.3d 842, 846 (Tex.2005); Browning v. Prostok, 165 S.W.3d 336, 344 (Tex. 2005). Evidence favorable to the non-movant will be taken as true in deciding whether there is a disputed issue of material fact. Fort Worth Osteopathic Hospital, Inc. v. Reese, 148 S.W.3d 94, 99 (Tex.2004). All reasonable inferences, including any doubts, must be resolved in favor of the non-movant. Id. A defendant is entitled to summary judgment if the evidence disproves as a matter of law at least one element of each of the plaintiff's causes of action or if it conclusively establishes all elements of an affirmative defense. D. Houston, Inc. v. Love, 92 S.W.3d 450, 454 (Tex.2002); Randall's Food Markets, Inc. v. Johnson, 891 S.W.2d 640, 644 (Tex.1995). Once the defendant establishes a right to summary judgment as a matter of law, the burden shifts to the plaintiff to present evidence raising a genuine issue of material fact.

Summary

Detailed explanation of the standard for summary judgment under Texas law, including the burden of proof on the moving party, the treatment of evidence, and the shifting of the burden to the non-movant. It outlines the conditions under which a defendant is entitled to summary judgment and the procedural requirements for such motions.

[Cook v. Nacogdoches Anesthesia Group, 167 S.W.3d 476 \(Tex. 2005\)](#)

Texas Supreme Court

Extract

Texas uses summary judgments merely 'to eliminate patently unmeritorious claims and untenable defenses.' *Casso v. Brand*, 776 S.W.2d 551, 556 (Tex. 1989). In reviewing a traditional motion for summary judgment, this court must apply the standards established in *Nixon v. Mr. Property Management Company*, 690 S.W.2d 546, 548-49 (Tex.1985), which are as follows: (1) The movant for summary judgment has the burden of showing that there is no genuine issue of material fact and that it is entitled to judgment as a matter of law; (2) Evidence favorable to the non-movant will be taken as true in deciding whether there is a disputed material fact issue precluding summary judgment; and (3) Every reasonable inference must be indulged in favor of the non-movant and any doubts resolved in its favor. See *id.* A defendant who negates at least one essential element of a cause of action or proves all essential elements of an affirmative defense is entitled to summary judgment as to that cause of action. See *Randall's Food Mkts., Inc. v. Johnson*, 891 S.W.2d 640, 644 (Tex.1995). Because the burden of proof is on the movant, and all doubts about the existence of a genuine issue of a material fact are resolved against the movant, we must view the evidence and its reasonable inferences in the light most favorable to the nonmovant. See *Great Am. Reserve Ins. Co. v. San Antonio Plumbing Supply Co.*, 391 S.W.2d 41, 47 (Tex.1965). In a no-evidence summary judgment, a party is entitled to summary judgment if there is no evidence of one or more essential elements of a claim or defense on which an adverse party would have the burden of proof at trial. Tex.R. Civ. P. 166a(i). We view the evidence in the light most favorable to the nonmovant, disregarding all contrary evidence and inferences. *King Ranch, Inc. v. Chapman*, 118 S.W.3d 742, 751 (Tex.2003), cert. denied, 541 U.S. 1030, 124 S.Ct. 2097, 158 L.Ed.2d 711 (2004). In reviewing a no-evidence summary judgment, we apply the same legal sufficiency standard we apply in reviewing a directed verdict. *Id.* at 750-51. A no-evidence summary judgment is improperly granted if the nonmovant brings forth more than a scintilla of probative evidence to raise a genuine issue of material fact. *Id.* at 751. More than a scintilla of evidence exists when the evidence rises to a level that would enable reasonable and fair-minded people to differ in their conclusions. *Id.* If the movant's motion and summary judgment proof facially establish its right to judgment as a matter of law, the burden shifts to the nonmovant to raise a material fact issue sufficient to defeat summary judgment. *Dolcefino v. Randolph*, 19 S.W.3d 906, 917 (Tex.App.-Houston [14th Dist.] 2000, pet. denied). If the issue raised is based upon undisputed and unambiguous facts, then the reviewing court may determine the question presented as a matter of law.

Summary

Detailed explanation of how summary judgments are defined and applied under Texas law. It outlines the standards for traditional and no-evidence summary judgments, the burden of proof, and how evidence is viewed in favor of the non-movant. This information is applicable to any case involving summary judgment in Texas.

[Coffeyville Res. Crude Transp. v. Exxonmobil Pipeline Co., 12-23-00276-CV \(Tex. App. Jan 31, 2025\)](#)

Texas Court of Appeals

Extract

The movant for traditional summary judgment has the burden of showing that there is no genuine issue of material fact and that it is entitled to judgment as a matter of law. See TEX. R. CIV. P. 166a(c); Nixon v. Mr. Prop. Mgmt. Co. Inc., 690 S.W.2d 546, 548 (Tex. 1985). A defendant who conclusively negates at least one essential element of the nonmovant's cause of action is entitled to summary judgment as to that cause of action. See Randall's Food Mkts., Inc. v. Johnson, 891 S.W.2d 640, 644 (Tex. 1995). Likewise, a defendant who conclusively establishes each element of an affirmative defense is entitled to summary judgment. Id. Once the movant establishes a right to summary judgment, the nonmovant has the burden to respond to the motion and present to the trial court any issues that would preclude summary judgment. See City of Houston v. Clear Creek Basin Auth., 589 S.W.2d 671, 678-79 (Tex. 1979). The only question is whether an issue of material fact is presented. See TEX. R. CIV. P. 166a(c).

Summary

Detailed explanation of the requirements and process for obtaining a summary judgment under Texas law. It outlines the burden on the movant to show no genuine issue of material fact and entitlement to judgment as a matter of law. It also explains the conditions under which a defendant can be granted summary judgment, either by negating an essential element of the nonmovant's cause of action or by establishing an affirmative defense. The passage further clarifies the nonmovant's burden to present issues that would preclude summary judgment.

[Panhandle Baptist Foundation v. Clodfelter, 54 S.W.3d 66 \(Tex. App. 2001\)](#)

Texas Court of Appeals

Extract

After adequate time for discovery, a party may move for a summary judgment as to all or any part of a lawsuit on the basis that there is no evidence of one or more essential elements of a claim or defense on which an adverse party would have the burden of proof at trial. Tex. R. Civ. P. 166a(a),(b),(i). A no-evidence summary judgment is essentially a pretrial directed verdict, and we apply the same legal sufficiency standard in reviewing a no-evidence summary judgment as we apply in reviewing a directed verdict. ... To prevail on a motion for summary judgment other than a no-evidence motion, a party must conclusively establish the absence of any genuine issue of material fact and that the party is entitled to judgment as a matter of law. Tex. R. Civ. P. 166a(c).

Summary

Detailed explanation of the summary judgment process under Texas law, including the requirements for both no-evidence and traditional summary judgments. It references specific Texas Rules of Civil Procedure, indicating its general applicability to cases in Texas.

[Tex. Appleseed v. Spring Branch Indep. Sch. Dist., 388 S.W.3d 775 \(Tex. App. 2012\)](#)

Texas Court of Appeals

Extract

The summary-judgment movant must conclusively establish its right to judgment as a matter of law. See *MMP, Ltd. v. Jones*, 710 S.W.2d 59, 60 (Tex. 1986). Because summary judgment is a question of law, we review a trial court's summary judgment decision de novo. *Mann Frankfort Stein & Lipp Advisors, Inc. v. Fielding*, 289 S.W.3d 844, 848 (Tex. 2009). To prevail on a traditional summary-judgment motion, asserted under Rule 166a(c), a movant must prove that there is no genuine issue regarding any material fact and that it is entitled to judgment as a matter of law. See *Tex.R. Civ. P. 166a(c); Little v. Tex. Dep't of Criminal Justice*, 148 S.W.3d 374, 381 (Tex. 2004). A matter is conclusively established if reasonable people could not differ as to the conclusion to be drawn from the evidence. See *City of Keller v. Wilson*, 168 S.W.3d 802, 816 (Tex. 2005). When a party moves for summary judgment on a claim for which it bears the burden of proof, it must show that it is entitled to prevail on each element of its cause of action. See *Parker v. Dodge*, 98 S.W.3d 297, 299 (Tex.App.-Houston [1st Dist.] 2003, no pet.). The party meets this burden if it produces evidence that would be sufficient to support an instructed verdict at trial. *Id.* When a party moves for summary judgment on a claim for which it does not bear the burden of proof, it must establish as a matter of law that there is no genuine issue of fact as to one or more of the essential elements of the nonmovant's claim. *Gibbs v. Gen. Motors Corp.*, 450 S.W.2d 827, 828 (Tex. 1970).

Summary

Detailed explanation of the requirements and standards for summary judgment under Texas law. It explains that a movant must conclusively establish its right to judgment as a matter of law, and that summary judgment is reviewed de novo. It also outlines the requirements for both traditional summary judgment motions and those where the movant does not bear the burden of proof. This information is applicable to any case involving summary judgment in Texas.

[Perkins v. Groff, 936 S.W.2d 661 \(Tex. App. 1996\)](#)

Texas Court of Appeals

Extract

To obtain a summary judgment, the movant has the burden of showing that there is no genuine issue of material fact and that he is entitled to judgment as a matter of law. TEX.R. CIV. P. 166a(c). When both parties move for summary judgment, each party must carry his own burden of establishing a right to judgment. Neither can prevail solely because the other party failed to discharge his burden. Gonzalez v. State Bar of Texas, 904 S.W.2d 823, 825 (Tex.App.--San Antonio 1995, writ denied). When counter motions for summary judgment are properly before the trial court at the time judgment is rendered, all the evidence accompanying both motions should be considered in deciding whether to grant either party's motion. Id. As both parties were movants below, we must indulge all reasonable inferences and resolve all doubts in favor of the losing party.

Summary

Clear definition and application of summary judgment under Texas law, as outlined in the Texas Rules of Civil Procedure and supported by case law. It explains the burden of proof required for a movant to obtain summary judgment and the process when both parties file for summary judgment.

[Nickerson v. Unique Emp't I, Ltd.](#)

Texas Court of Appeals

Extract

Under Rule 166a(i), a party may move for summary judgment 'on the ground that there is no evidence of one or more essential elements of a claim or defense on which an adverse party would have the burden of proof at trial.' Tex.R.Civ.P. 166a(i). 'To defeat a no-evidence motion, the non[]movant must produce evidence raising a genuine issue of material fact as to the challenged elements.' Parker, 514 S.W.3d at 220. 'If the non[]movant fails to meet its burden under the no-evidence motion, there is no need to address the challenge to the traditional motion as it necessarily fails.' Id. at 219. To be entitled to traditional summary judgment, a movant must establish there is no genuine issue of material fact so that the movant is entitled to judgment as a matter of law. Tex.R.Civ.P. 166a(c); Painter v. Amerimex Drilling I, Ltd., 561 S.W.3d 125, 130 (Tex. 2018). A defendant who conclusively negates a single essential element of a cause of action or conclusively establishes an affirmative defense is entitled to summary judgment on that claim. Lujan v. Navistar, Inc., 555 S.W.3d 79, 84 (Tex. 2018) (citing Centeq Realty, Inc. v. Siegler, 899 S.W.2d 195, 197 (Tex. 1995)).

Summary

Detailed explanation of how summary judgment is defined and applied under Texas law, specifically under Texas Rule of Civil Procedure 166a. It distinguishes between no-evidence and traditional summary judgments, explaining the requirements and burdens for each type. This information is applicable to any case involving summary judgment in Texas.

[Segal v. Southern County Mut. Ins. Co., 832 S.W.2d 617 \(Tex. App. 1992\)](#)

Texas Court of Appeals

Extract

Either party may move for summary judgment under rule 166a of the Texas Rules of Civil Procedure. When both parties move for summary judgment, each party must carry its own burden, and neither can prevail because of the failure of the other to discharge its burden. ... The Texas Supreme Court has established the following standards for reviewing a motion for summary judgment: 1. The movant for summary judgment has the burden of showing that there is no genuine issue of material fact and that it is entitled to judgment as a matter of law. 2. In deciding whether there is a disputed material fact issue precluding summary judgment, evidence favorable to the non-movant will be taken as true. 3. Every reasonable inference must be indulged in favor of the non-movant and any doubts resolved in its favor.

Summary

Clear definition and application of summary judgment under Texas law, as established by the Texas Supreme Court. It outlines the burden of proof required by the movant and the standards for reviewing a motion for summary judgment, which are applicable in general cases involving summary judgments in Texas.

[Cluett v. Medical Protective Co., 829 S.W.2d 822 \(Tex. App. 1992\)](#)

Texas Court of Appeals

Extract

The function of a summary judgment is not to deprive a litigant of its right to a full hearing on the merits of any real issue of fact but is to eliminate patently unmeritorious claims and untenable defenses. *Gulbenkian v. Penn*, 151 Tex. 412, 416, 252 S.W.2d 929, 931 (1952). The standards for reviewing a motion for summary judgment are: 1. The movant for summary judgment has the burden of showing that there is no genuine issue of material fact and that it is entitled to judgment as a matter of law. 2. In deciding whether there is a disputed material fact issue precluding summary judgment,

evidence favorable to the non-movant will be taken as true. 3. Every reasonable inference must be indulged in favor of the non-movant and any doubts resolved in its favor. Nixon v. Mr. Property Management Co., 690 S.W.2d 546, 548-49 (Tex.1985); Montgomery v. Kennedy, 669 S.W.2d 309, 310-11 (Tex.1984); Wilcox v. St. Mary's Univ., 531 S.W.2d 589, 592-93 (Tex. 1975). The purpose of the summary judgment rule is not to provide either a trial by deposition or a trial by affidavit but to provide a method of summarily terminating a case when it clearly appears that only a question of law is involved and that no genuine issue of material fact remains. Gaines v. Hamman, 163 Tex. 618, 626, 358 S.W.2d 557, 563 (1962). Under rule 166a of the Texas Rules of Civil Procedure, the plaintiff and the defendant may move simultaneously for summary judgment. When both parties move for summary judgment, each party must carry its own burden, and neither can prevail because of the failure of the other to discharge its burden. Cove Invs., Inc. v. Manges, 602 S.W.2d 512, 514 (Tex.1980). To prevail as movant on summary judgment, a plaintiff must conclusively prove all of the elements of the cause of action as a matter of law. Swilley v. Hughes, 488 S.W.2d 64, 67 (Tex.1972); TEX.R.CIV.P. 166a.

Summary

Detailed explanation of the purpose and standards for summary judgment under Texas law. It outlines the burden of proof required for the movant, the treatment of evidence, and the purpose of the summary judgment rule. It also references specific Texas case law and rules of civil procedure, indicating its general applicability in Texas courts.

[Brown v. Mesa Distrib., Inc., 414 S.W.3d 279 \(Tex. App. 2013\)](#)

Texas Court of Appeals

Extract

To prevail on a traditional summary judgment motion, the movant must establish that no genuine issues of material fact exist and that it is entitled to judgment as a matter of law. Tex.R. Civ. P. 166a(c); Little v. Tex. Dep't of Criminal Justice, 148 S.W.3d 374, 381 (Tex.2004). ... The movant for summary judgment has the burden of showing that there is no genuine issue of material fact and that it is entitled to judgment as a matter of law. ... In deciding whether there is a disputed material fact issue precluding summary judgment, evidence favorable to the non-movant will be taken as true. ... Every reasonable inference must be indulged in favor of the non-movant and any doubt resolved in its favor. ... When the plaintiff moves for summary judgment, the plaintiff must conclusively prove all elements of its cause of action as a matter of law.

Summary

Detailed explanation of the requirements and standards for obtaining a summary judgment in Texas. It outlines the burden on the movant to show

no genuine issues of material fact and entitlement to judgment as a matter of law. It also explains the standard of review, which favors the non-movant by taking their evidence as true and resolving doubts in their favor. This is applicable to all summary judgment motions in Texas courts.

[International Ins. Co. v. Dresser Industries, Inc., 841 S.W.2d 437 \(Tex. App. 1992\)](#)

Texas Court of Appeals

Extract

The function of a summary judgment is not to deprive a litigant of his right to a full hearing on the merits of any real issue of fact, but to eliminate patently unmeritorious claims and untenable defenses. ... The standards for reviewing a motion for summary judgment are well established. As mandated by the Supreme Court of Texas, they are as follows: 1. The movant for summary judgment has the burden of showing that there is no genuine issue of material fact and that it is entitled to judgment as a matter of law. 2. In deciding whether there is a disputed material fact issue precluding summary judgment, evidence favorable to the non-movant will be taken as true. 3. Every reasonable inference must be indulged in favor of the non-movant and any doubts resolved in its favor.

Summary

The passage explains the purpose of summary judgment, which is to eliminate claims or defenses that are clearly without merit. It outlines the standards for granting summary judgment, emphasizing that the movant must demonstrate the absence of any genuine issue of material fact and entitlement to judgment as a matter of law. The passage also highlights the approach courts must take in reviewing such motions, favoring the non-movant by taking their evidence as true and resolving doubts in their favor. This information is generally applicable to summary judgment proceedings in Texas.

[MMP, Ltd. v. Jones, 710 S.W.2d 59 \(Tex. 1986\)](#)

Texas Supreme Court

Extract

To be entitled to summary judgment, the movant must conclusively prove all essential elements of his claim. *City of Houston v. Clear Creek Basin Authority*, 589 S.W.2d 671, 678 (Tex. 1979). The burden is on movant to show that there are no genuine issues of material fact and that movant is entitled to judgment as a matter of law. Tex.R.Civ.P. 166-A(c). Evidence favorable to the nonmovant will be taken as true and every reasonable inference must be

indulged in nonmovants, and any doubts resolved in their favor. Wilcox v. St. Mary's University, 531 S.W.2d 589, 593 (Tex.1975).

Summary

Under Texas law, for a party to be entitled to summary judgment, they must conclusively prove all essential elements of their claim. The movant has the burden to demonstrate that there are no genuine issues of material fact and that they are entitled to judgment as a matter of law. The court must take evidence favorable to the nonmovant as true, indulge every reasonable inference in favor of the nonmovant, and resolve any doubts in their favor. This establishes a high standard for granting summary judgment, ensuring that it is only awarded when there is no real dispute over the material facts of the case.

[Gibbs v. General Motors Corp., 450 S.W.2d 827 \(Tex. 1970\)](#)

Texas Supreme Court

Extract

The two quotations illustrate a basic fallacy frequently found in the approach of some of our courts to the matter of rendering or affirming a summary judgment in favor of a defendant. In such cases, the question on appeal, as well as in the trial court, is Not whether the summary judgment proof Raises fact issues with reference to the essential elements of a plaintiff's claim or cause of action, but is whether the summary judgment proof Establishes as a matter of law that there is no genuine issue of fact as to one or more of the essential elements of the plaintiff's cause of action. The last sentence of paragraph (c) of Rule 166--A, Texas Rules of Civil Procedure, governs. It provides: 'The judgment sought shall be rendered forthwith if the pleadings, depositions, and admissions on file, together with the affidavits, if any, Show that, except as to the amount of damages, There is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law.' The provisions of Rule 166--A are applicable alike to defendants and plaintiffs who move for summary judgment; the judgment sought should be granted, and if granted should be affirmed, Only if the summary judgment record establishes a right thereto as a matter of law.

Summary

Summary judgment should only be granted if the record establishes a right to judgment as a matter of law.

[Friendswood Development Company v. Dade Company, 926 S.W.2d 280, 39 Tex. Sup.Ct. J. 874 \(Tex. 1996\)](#)

Texas Supreme Court

Extract

Because this is an appeal from a summary judgment, we take as true evidence favorable to the non-movant. Nixon v. Mr. Property Management Co., 690 S.W.2d 546, 548-49 (Tex.1985). If the defendant disproves at least one element of the plaintiff's claims as a matter of law, summary judgment is appropriate. Doe v. Boys Clubs of Greater Dallas, Inc., 907 S.W.2d 472, 477 (Tex.1995). To obtain summary judgment based on an affirmative defense, the defendant must conclusively establish all elements of the affirmative defense. Cathey v. Booth, 900 S.W.2d 339, 341 (Tex.1995).

Summary

Clear explanation of how summary judgment is applied under Texas law. It outlines the conditions under which a summary judgment is appropriate, such as when a defendant disproves at least one element of the plaintiff's claims as a matter of law or when a defendant conclusively establishes all elements of an affirmative defense. This information is applicable to any case involving summary judgment in Texas.

[**Great Am. Reserve Ins. Co. v. San Antonio Plumbing Supply Co., 391 S.W.2d 41 \(Tex. 1965\)**](#)

Texas Supreme Court

Extract

This is a summary judgment case; and in answering the above question, we must follow certain rules laid down by this Court. Rule 166-A, Texas Rules of Civil Procedure, provides that summary judgment shall be rendered if it is shown that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law. The burden of proof is on the movant, and all doubts as to the existence of a genuine issue as to a material fact are resolved against him. Tigner v. First Nat'l Bank, 153 Tex. 69, 264 S.W.2d 85 (1954); Gulbenkian v. Penn, 151 Tex. 412, 252 S.W.2d 929 (1952). In other words, the evidence must be viewed in the light most favorable to the party opposing the motion.

Summary

A summary judgment in Texas is defined by Rule 166-A of the Texas Rules of Civil Procedure. It is applicable when there is no genuine issue of material fact, and the moving party is entitled to judgment as a matter of law. The burden of proof lies with the movant, and any doubts regarding material facts are resolved against the movant. The evidence must be viewed in the light most favorable to the non-moving party.

[Ford Motor Co. v. Ridgway, 135 S.W.3d 598, 47 Tex. Sup.Ct. J. 266 \(Tex. 2004\)](#)

Texas Supreme Court

Extract

We must decide whether the evidence offered by plaintiffs in response to the defendant's Rule 166a(i) summary judgment motion created a genuine issue of material fact that a manufacturing defect in the defendant's product caused the plaintiffs injuries. ... We first review the trial court's summary judgment under the standards of Rule 166a(i). The non-movants, here the plaintiffs, must produce summary judgment evidence raising a genuine issue of material fact to defeat the summary judgment under that provision. Tex.R. Civ. P. 166a(i). A genuine issue of material fact exists if more than a scintilla of evidence establishing the existence of the challenged element is produced. ... When determining if more than a scintilla of evidence has been produced in response to a Rule 166a(i) motion for summary judgment, the evidence must be viewed in the light most favorable to the non-movant.

Summary

Clear explanation of how summary judgment is defined and applied under Texas law, particularly under Rule 166a(i). It explains the burden on the non-movant to produce more than a scintilla of evidence to raise a genuine issue of material fact, and how the evidence should be viewed in the light most favorable to the non-movant. This is a general principle applicable to summary judgment motions in Texas.

[D. Houston, Inc. v. Love, 92 S.W.3d 450 \(Tex. 2002\)](#)

Texas Supreme Court

Extract

Summary judgment is appropriate only when there are no disputed issues of material fact and the moving party is entitled to judgment as a matter of law. Nixon v. Mr. Prop. Mgmt. Co., 690 S.W.2d 546, 548 (Tex. 1985). In reviewing a traditional motion for summary judgment, such as the one granted to Treasures here, the reviewing court must resolve every doubt and indulge every reasonable inference in the nonmovant's favor. Id. at 549. All evidence favorable to the nonmovant will be taken as true. Id. at 548-49. In appealing the court of appeals' reversal of the trial court's summary judgment, Treasures must disprove as a matter of law at least one essential element of each of Love's theories of recovery. Science Spectrum, Inc. v. Martinez, 941 S.W.2d 910, 911 (Tex. 1997).

Summary

Definition and application of summary judgment under Texas law. It states that summary judgment is appropriate when there are no disputed material facts and the moving party is entitled to judgment as a matter of law. It also explains the standard of review for summary judgments, emphasizing that doubts and inferences should favor the nonmovant, and all evidence favorable to the nonmovant should be taken as true. Additionally, it outlines the burden on the movant in an appeal to disprove an essential element of the nonmovant's claims.

[Wornick Co. v. Casas, 856 S.W.2d 732 \(Tex. 1993\)](#)

Texas Supreme Court

Extract

Summary judgment is proper if the movant establishes that there are no genuine issues of material fact and that he or she is entitled to judgment as a matter of law. City of Houston v. Clear Creek Basin Authority, 589 S.W.2d 671, 675-79 (Tex.1979). A defendant who conclusively negates one of the essential elements of the plaintiff's cause of action is therefore entitled to summary judgment. See Rodriguez v. Naylor Industries, Inc., 763 S.W.2d 411, 413 (Tex.1989). In reviewing a summary judgment, we must accept all evidence favorable to the non-movant as true, indulging every reasonable inference and resolving all doubts in favor of the non-movant.

Summary

Clear definition and application of summary judgment under Texas law. It states that summary judgment is appropriate when the movant shows there are no genuine issues of material fact and they are entitled to judgment as a matter of law. It also explains that a defendant can obtain summary judgment by conclusively negating an essential element of the plaintiff's case. Additionally, it outlines the standard of review, which requires accepting all evidence favorable to the non-movant as true and resolving doubts in their favor. This information is generally applicable to summary judgment procedures in Texas.

[Williams v. First Tennessee Nat. Corp., 97 S.W.3d 798 \(Tex. App. 2003\)](#)

Texas Court of Appeals

Extract

The standard of review on appeal is whether the successful movant at the trial court level carried its burden of showing there is no genuine issue of material fact and that it is entitled to judgment as a matter of law. See

Gonzales v. City of El Paso, 978 S.W.2d 619, 621 (Tex.App.-El Paso 1998, no pet.) (citing Lear Siegler, Inc. v. Perez, 819 S.W.2d 470, 471 (Tex. 1991)). The question on appeal is whether the summary judgment proof establishes, as a matter of law, that there is no genuine issue of material fact as to one or more of the essential elements of the movant's cause of action or claim. Id. In resolving the issue of whether the movant has carried this burden, we take as true all evidence favorable to the nonmovant and resolve all doubts in the nonmovant's favor. See id. Where the defendants are the movants and they submit summary judgment evidence disproving at least one essential element of each of the plaintiffs' causes of action, summary judgment should be granted. Id. Furthermore, where, as here, the trial court's order granting summary judgment does not specify the ground or grounds on which it bases its ruling, summary judgment will be affirmed on appeal if any of the theories advanced in the motion for summary judgment is meritorious. Id.

Summary

Detailed explanation of the standard of review for summary judgments in Texas. It explains that the movant must show there is no genuine issue of material fact and that they are entitled to judgment as a matter of law. The passage also describes the appellate review process, emphasizing that all evidence favorable to the nonmovant is taken as true, and doubts are resolved in their favor. Additionally, it explains that if the defendants can disprove at least one essential element of the plaintiffs' causes of action, summary judgment should be granted. The passage also notes that if the trial court's order does not specify the grounds for summary judgment, it will be affirmed on appeal if any of the theories in the motion are meritorious.

[Rhone-Poulenc v. Steel, 070199, 997 S.W.2d 217, 42 Tex. Sup. Ct. J. 927 \(Tex. 1999\)](#)

Texas Supreme Court

Extract

Rule 166a provides a method of summarily terminating a case when it clearly appears that only a question of law is involved and that there is no genuine fact issue. See Swilley v. Hughes, 488 S.W.2d 64, 68 (Tex. 1972). The party moving for summary judgment carries the burden of establishing that no material fact issue exists and that it is entitled to judgment as a matter of law. See TEX. R. CIV. P. 166a(c); Wornick Co. v. Casas, 856 S.W.2d 732, 733 (Tex. 1993); Nixon v. Mr. Property Mgt. Co., 690 S.W.2d 546, 548 (Tex. 1985); Cavillo v. Gonzalez, 922 S.W.2d 928, 929 (Tex. 1966). The nonmovant has no burden to respond to a summary judgment motion unless the movant conclusively establishes its cause of action or defense. See Oram v. General Am. Oil Co., 513 S.W.2d 533, 534 (Tex. 1974); Swilley, 488 S.W.2d at 67-68. The trial court may not grant summary judgment by default because the nonmovant did not respond to the summary judgment motion when the movant's summary judgment proof is legally insufficient. See City

of Houston v. Clear Creek Basin Auth., 589 S.W.2d 671, 678 (Tex. 1979). The movant must establish its right to summary judgment on the issues expressly presented to the trial court by conclusively proving all elements of the movant's cause of action or defense as a matter of law.

Summary

Clear definition and application of summary judgment under Texas law, as outlined in Rule 166a of the Texas Rules of Civil Procedure. It explains the burden of proof required for the movant and the conditions under which a summary judgment can be granted. The passage is from a Texas Supreme Court case, which makes it authoritative and generally applicable to similar cases in Texas.

[Binur v. Jacobo, 135 S.W.3d 646 \(Tex. 2004\)](#)

Texas Supreme Court

Extract

Texas Rule of Civil Procedure 166a does not prohibit a party from combining in a single motion a request for summary judgment that utilizes the procedures under either subsection (a) or (b), with a request for summary judgment that utilizes subsection (i) and asserts that there is 'no evidence of one or more essential elements of a claim or defense.' The fact that evidence may be attached to a motion that proceeds under subsection (a) or (b) does not foreclose a party from also asserting that there is no evidence with regard to a particular element. Similarly, if a motion brought solely under subsection (i) attaches evidence, that evidence should not be considered unless it creates a fact question, but such a motion should not be disregarded or treated as a motion under subsection (a) or (b). We disapprove of decisions that hold or imply that, if a party attaches evidence to a motion for summary judgment, any request for summary judgment under Rule 166a(i) will be disregarded. Some Texas courts have declared that when a party seeks summary judgment under subsection (a) or (b), and also under subsection (i), the better practice is to file two separate motions, or at least to include headings that clearly delineate and segregate the part of a motion relying on subsection (a) or (b) from the part that relies on subsection (i). We agree that using headings to clearly delineate the basis for summary judgment under subsection (a) or (b) from the basis for summary judgment under subsection (i) would be helpful to the bench and bar, but the rule does not require it. If a motion clearly sets forth its grounds and otherwise meets Rule 166a's requirements, it is sufficient. Here, Binur's motion for summary judgment asserted that there was no evidence of proximate cause. The court of appeals erred in concluding that this ground could be disregarded because evidence was attached to the motion.

Summary

The passage provides insight into how summary judgments are defined and applied under Texas law, specifically under Texas Rule of Civil Procedure 166a. It clarifies that a party can combine requests for summary judgment under different subsections (a, b, and i) in a single motion. It also emphasizes that attaching evidence to a motion under subsection (i) does not automatically convert it to a motion under subsections (a) or (b). The passage further suggests that while it is helpful to separate the bases for summary judgment using headings, it is not a requirement as long as the motion meets the rule's requirements. This guidance is applicable to all cases involving summary judgment motions in Texas.

[Little v. Texas Dept. of Criminal Justice, 148 S.W.3d 374 \(Tex. 2004\)](#)

Texas Supreme Court

Extract

Under Texas Rule of Civil Procedure 166a(c), the judgment sought by the moving party must be rendered if the summary judgment evidence shows that 'there is no genuine issue as to any material fact and the moving party is entitled to judgment as a matter of law....' Tex.R. Civ. P. 166a(c). A defendant who conclusively negates at least one of the essential elements of the plaintiff's cause of action is entitled to summary judgment. Randall's Food Mkts., Inc. v. Johnson, 891 S.W.2d 640, 644 (Tex.1995); see also Lear Siegler, Inc. v. Perez, 819 S.W.2d 470, 471 (Tex.1991) ('For a defendant to be entitled to summary judgment [under Rule 166a(c)] it must disprove, as a matter of law, one of the essential elements of each of plaintiffs' causes of action.'). 'When reviewing a motion for summary judgment, the court takes the nonmovant's evidence as true, indulges every reasonable inference in favor of the nonmovant,' and resolves all doubts in favor of the nonmovant. M.D. Anderson Hosp. v. Willrich, 28 S.W.3d 22, 23 (Tex.2000) (citing Nixon v. Mr. Prop. Mgmt. Co., 690 S.W.2d 546, 548-49 (Tex.1985)).

Summary

Definition and application of summary judgment under Texas law. It explains that under Texas Rule of Civil Procedure 166a(c), a summary judgment is appropriate when there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law. It further clarifies that a defendant can obtain summary judgment by conclusively negating an essential element of the plaintiff's cause of action. The passage also outlines the standard of review for summary judgment motions, emphasizing that the court must view the nonmovant's evidence in the most favorable light.

[Science Spectrum, Inc. v. Martinez, 941 S.W.2d 910 \(Tex. 1997\)](#)

Texas Supreme Court

Extract

Of course, summary judgment for a defendant is proper only when the defendant negates at least one element of each of the plaintiff's theories of recovery, *Gibbs v. General Motors Corp.*, 450 S.W.2d 827, 828 (Tex.1970), or pleads and conclusively establishes each element of an affirmative defense. *City of Houston v. Clear Creek Basin Auth.*, 589 S.W.2d 671, 678 (Tex.1979). When reviewing a summary judgment, we take as true all evidence favorable to the nonmovant and indulge every reasonable inference in the nonmovant's favor. *Nixon v. Mr. Property Management Co.*, 690 S.W.2d 546, 549 (Tex.1985). ... A motion for summary judgment must itself expressly present the grounds upon which it is made, and must stand or fall on these grounds alone. *McConnell v. Southside Indep. Sch. Dist.*, 858 S.W.2d 337, 341 (Tex.1993); see TEX.R.CIV.P. 166a(c) ('The motion for summary judgment shall state the specific grounds therefor.'). In other words, in determining whether grounds are expressly presented, we may not rely on briefs or summary judgment evidence. See *McConnell*, 858 S.W.2d at 341.

Summary

Definition and application of summary judgment under Texas law. It explains that a summary judgment for a defendant is appropriate when the defendant either negates an element of the plaintiff's claim or establishes an affirmative defense. The passage also outlines the procedural requirement that a motion for summary judgment must clearly state its grounds, and these grounds must be the basis for the court's decision. The passage further emphasizes that all evidence favorable to the nonmovant should be considered true, and reasonable inferences should be made in their favor.

[Kpmg Peat Marwick v. Harrison Cty. Hous. Fin., 988 S.W.2d 746, 42 Tex. Sup. Ct. J. 428 \(Tex. 1999\)](#)

Texas Supreme Court

Extract

The standard for reviewing a summary judgment under Texas Rule of Civil Procedure 166a(c) is whether the successful movant at the trial level carried its burden of showing that there is no genuine issue of material fact and that judgment should be granted as a matter of law. In conducting our review, we take as true all evidence favorable to the nonmovant, and we make all reasonable inferences in the nonmovant's favor. A defendant moving for summary judgment on the affirmative defense of limitations has the burden to conclusively establish that defense. Thus, the defendant must (1) conclusively prove when the cause of action accrued, and (2) negate the discovery rule, if it applies and has been pleaded or otherwise raised, by proving as a matter of law that there is no genuine issue of material fact about when the plaintiff discovered, or in the exercise of reasonable

diligence should have discovered the nature of its injury. If the movant establishes that the statute of limitations bars the action, the nonmovant must then adduce summary judgment proof raising a fact issue in avoidance of the statute of limitations.

Summary

Detailed explanation of the standard for reviewing a summary judgment under Texas Rule of Civil Procedure 166a(c). It outlines the burden of proof on the movant to show no genuine issue of material fact exists and that judgment should be granted as a matter of law. It also explains the specific requirements for a defendant moving for summary judgment on the affirmative defense of limitations, including proving when the cause of action accrued and negating the discovery rule if applicable. This information is crucial for understanding how summary judgments are defined and applied in Texas.

[Provident Life and Acc. Ins. Co. v. Knott, 128 S.W.3d 211 \(Tex. 2003\)](#)

Texas Supreme Court

Extract

We review the trial court's summary judgment de novo. See FM Props. Operating Co. v. City of Austin, 22 S.W.3d 868, 872 (Tex.2000). When reviewing a summary judgment, we take as true all evidence favorable to the nonmovant, and we indulge every reasonable inference and resolve any doubts in the nonmovant's favor. Southwestern Elec. Power Co. v. Grant, 73 S.W.3d 211, 215 (Tex.2002); Sci. Spectrum, Inc. v. Martinez, 941 S.W.2d 910, 911 (Tex.1997). Under Texas Rule of Civil Procedure 166a(c), the party moving for summary judgment bears the burden to show that no genuine issue of material fact exists and that it is entitled to judgment as a matter of law.

Summary

Clear explanation of the standard for summary judgment under Texas law. It explains that the review of a summary judgment is conducted de novo, meaning the appellate court considers it anew, as if it had not been heard before and as if no decision previously had been rendered. The passage also outlines the burden on the party moving for summary judgment to demonstrate that there is no genuine issue of material fact and that they are entitled to judgment as a matter of law. This is a general principle applicable to summary judgment motions in Texas.

[Lear Siegler, Inc. v. Perez, 819 S.W.2d 470 \(Tex. 1991\)](#)

Texas Supreme Court

Extract

To be entitled to summary judgment, Lear Siegler had the burden to establish that there existed no genuine issue of fact thereby entitling it to judgment as a matter of law. *City of Houston v. Clear Creek Basin Authority*, 589 S.W.2d 671, 678 (Tex. 1979). All doubts are resolved against the movant, and the reviewing court must view the evidence in the light most favorable to the non-movants. *Cate v. Dover Corp.*, 790 S.W.2d 559, 562 (Tex. 1990).

Summary

Clear definition and application of summary judgment under Texas law. It states that the party seeking summary judgment (the movant) must demonstrate that there is no genuine issue of material fact, which would entitle them to judgment as a matter of law. Additionally, it emphasizes that any doubts should be resolved against the movant, and the evidence should be viewed in the light most favorable to the non-movant. This establishes the standard for granting summary judgment in Texas courts.

[Gonzalez v. State Bar of Texas, 904 S.W.2d 823 \(Tex. App. 1995\)](#)

Texas Court of Appeals

Extract

Where both parties move for summary judgment, each party must carry his own burden of establishing a right to judgment. Neither can prevail solely because the other party failed to discharge his burden. ... When counter motions for summary judgment are properly before the trial court at the time judgment is rendered, all the evidence accompanying both motions should be considered in deciding whether to grant either party's motion. ... On appeal, where the only question presented is one of law, the proper course is for this court to render judgment for the party whose summary judgment motion should have been granted if either motion should have been granted.

Summary

The passage provides insight into the procedural aspects of summary judgment under Texas law. It explains that when both parties file for summary judgment, each must independently establish their right to judgment. The court must consider all evidence from both parties' motions. If the case is purely a question of law, the appellate court can render judgment for the party whose motion should have been granted. This information is applicable to any case involving summary judgment in Texas.

[Johnson v. Brewer & Pritchard, P.C., 73 S.W.3d 193 \(Tex. 2002\)](#)

Texas Supreme Court

Extract

The trial court granted the motion for summary judgment. The court of appeals affirmed without reaching the merits of the conspiracy claim. The court of appeals reasoned that Brewer & Pritchard's response to the no evidence motion for summary judgment did not tie facts in the record to the specific elements of the conspiracy claim. Brewer & Pritchard challenges the disposition of the conspiracy claim in its petition for review. We first consider whether Brewer & Pritchard's response to the no evidence motion for summary judgment met the requirement of Rule 166a(i) that evidence must be produced 'raising a genuine issue of material fact.' ... (i) No-Evidence Motion. After adequate time for discovery, a party without presenting summary judgment evidence may move for summary judgment on the ground that there is no evidence of one or more essential elements of a claim or defense on which an adverse party would have the burden of proof at trial. The motion must state the elements as to which there is no evidence. The court must grant the motion unless the respondent produces summary judgment evidence raising a genuine issue of material fact. This Court's comment to Rule 166a explains that a respondent to a motion under paragraph (i) need not marshal evidence, but may point out evidence that raises a fact issue on the challenged elements: This comment is intended to inform the construction and application of the rule.... To defeat a motion made under paragraph (i), the respondent is not required to marshal its proof; its response need only point out evidence that raises a fact issue on the challenged elements. The existing rules continue to govern the general requirements of summary judgment practice. A motion under paragraph (i) is subject to sanctions provided by existing law (Tex Civ. Prac. & Rem. Code §§ 9.001-10.006) and rules (Tex.R.Civ.P. 13).

Summary

Detailed explanation of how a no-evidence motion for summary judgment is defined and applied under Texas law, specifically under Rule 166a(i). It explains that after adequate time for discovery, a party can move for summary judgment on the basis that there is no evidence for one or more essential elements of a claim or defense. The court must grant the motion unless the respondent can produce evidence raising a genuine issue of material fact. The passage also clarifies that the respondent does not need to marshal all evidence but must point out evidence that raises a fact issue on the challenged elements.

[Lujan v. Navistar, Inc., 555 S.W.3d 79 \(Tex. 2018\)](#)

Texas Supreme Court

Extract

A traditional motion for summary judgment requires the moving party to show that no genuine issue of material fact exists and that it is entitled to judgment as a matter of law. TEX. R. CIV. P. 166a(c); Provident Life, 128 S.W.3d at 215-16. If the movant carries this burden, the burden shifts to the nonmovant to raise a genuine issue of material fact precluding summary judgment. Centeq Realty, Inc. v. Siegler, 899 S.W.2d 195, 197 (Tex. 1995). In reviewing the grant of summary judgment, we must credit evidence favoring the non-movant, indulging every reasonable inference and resolving all doubts in his or her favor.

Summary

Clear definition of summary judgment under Texas law, as outlined in Texas Rule of Civil Procedure 166a(c). It explains the burden of proof required for a party seeking summary judgment and the process by which the burden shifts to the nonmovant. The passage also describes the standard of review for summary judgment, emphasizing the need to favor the non-movant's evidence. This information is applicable to all cases involving summary judgment in Texas.

[Elliott-Williams Co. v. Diaz, 9 S.W.3d 801 \(Tex. 1999\)](#)

Texas Supreme Court

Extract

A party moving for summary judgment must establish its right to summary judgment on the issues expressly presented to the trial court by conclusively proving all elements of its cause of action or defense as a matter of law. See Tex. R. Civ. P. 166a(c); Rhone-Poulenc, Inc. v. Steel, 997 S.W.2d 217, 222-223 (Tex. 1999); Walker v. Harris, 924 S.W.2d 375, 377 (Tex. 1996). The defendant as movant must disprove at least one of the essential elements of the plaintiff's causes of action to prevail on summary judgment. See Science Spectrum, Inc. v. Martinez, 941 S.W.2d 910, 911 (Tex. 1997).

Summary

Clear definition and application of summary judgment under Texas law. It states that a party seeking summary judgment must conclusively prove all elements of its cause of action or defense as a matter of law. Additionally, if the defendant is the movant, they must disprove at least one essential element of the plaintiff's causes of action to succeed. This information is derived from Texas Rules of Civil Procedure and supported by case law, indicating its broad applicability in Texas legal proceedings.

[King Ranch, Inc. v. Chapman, 118 S.W.3d 742, 2003 WL 22025017 \(Tex. 2003\)](#)

Texas Supreme Court

Extract

Because King Ranch's summary judgment motion was, in part, a no-evidence motion, we consider the evidence in the light most favorable to the non-movant. Wal-Mart Stores, Inc. v. Rodriguez, 92 S.W.3d 502, 506 (Tex.2002); Johnson v. Brewer & Pritchard, P.C., 73 S.W.3d 193, 208 (Tex.2002). A no-evidence summary judgment is essentially a pretrial directed verdict, and we apply the same legal sufficiency standard in reviewing a no-evidence summary judgment as we apply in reviewing a directed verdict.

Summary

The passage provides insight into the application of no-evidence summary judgments under Texas law. It explains that a no-evidence summary judgment is akin to a pretrial directed verdict, and the same legal sufficiency standard is applied in reviewing both. This indicates that in Texas, when a party files a no-evidence summary judgment motion, the court must view the evidence in the light most favorable to the non-movant, similar to how it would approach a directed verdict.

[Centeq Realty, Inc. v. Siegler, 899 S.W.2d 195, 38 Tex. Sup. Ct. J. 658 \(Tex. 1995\)](#)

Texas Supreme Court

Extract

To obtain summary judgment, a movant must either negate at least one element of the plaintiff's theory of recovery, 'Moore' Burger, Inc. v. Phillips Petroleum Co., 492 S.W.2d 934, 936 (Tex.1972), or plead and conclusively establish each element of an affirmative defense. City of Houston v. Clear Creek Basin Auth., 589 S.W.2d 671, 678 (Tex.1979). Once the defendant produces sufficient evidence to establish the right to summary judgment, the plaintiff must present evidence sufficient to raise a fact issue. 'Moore' Burger, 492 S.W.2d at 936-37. Evidence favorable to the non-movant must be accepted as true and every reasonable inference indulged in the non-movant's favor. Nixon v. Mr. Property Management Co., 690 S.W.2d 546, 549 (Tex.1985).

Summary

Clear explanation of the requirements for obtaining a summary judgment in Texas. It outlines that the movant must either negate an element of the plaintiff's case or establish an affirmative defense. It also explains the

burden shift to the plaintiff to raise a fact issue once the defendant has established a right to summary judgment. The passage further emphasizes that evidence favorable to the non-movant should be accepted as true, and all reasonable inferences should be made in their favor. This is a general principle applicable to summary judgment motions in Texas courts.

[Painter v. Amerimex Drilling I, Ltd., 561 S.W.3d 125 \(Tex. 2018\)](#)

Texas Supreme Court

Extract

Amerimex filed a combined traditional and no-evidence summary-judgment motion. See TEX. R. CIV. P. 166a(c), (i). We review no-evidence motions under the same legal sufficiency standard as a directed verdict. Merriman v. XTO Energy, Inc., 407 S.W.3d 244, 248 (Tex. 2013). Under this standard, the nonmovant has the burden to produce more than a scintilla of evidence to support each challenged element of its claims. Id. In a traditional motion, the movant has the burden to show there is no genuine issue of material fact and the movant is entitled to judgment as a matter of law. TEX. R. CIV. P. 166a(c). A defendant is entitled to summary judgment if it conclusively negates at least one element of the plaintiff's claim. Frost Nat'l Bank v. Fernandez, 315 S.W.3d 494, 508 (Tex. 2010). In reviewing either type of summary-judgment motion, we view the evidence 'in the light most favorable to the nonmovant, crediting evidence a reasonable jury could credit and disregarding contrary evidence and inferences unless a reasonable jury could not.' Merriman, 407 S.W.3d at 248 ; Valence Operating Co. v. Dorsett, 164 S.W.3d 656, 661 (Tex. 2005).

Summary

Detailed explanation of how summary judgments are defined and applied under Texas law. It distinguishes between traditional and no-evidence summary-judgment motions. In a no-evidence motion, the nonmovant must produce more than a scintilla of evidence for each challenged element of its claims. In a traditional motion, the movant must demonstrate that there is no genuine issue of material fact and that they are entitled to judgment as a matter of law. The passage also explains the standard of review for these motions, emphasizing that evidence is viewed in the light most favorable to the nonmovant.

[Parker v. Dodge, 98 S.W.3d 297 \(Tex. App. 2003\)](#)

Texas Court of Appeals

Extract

When a plaintiff moves for summary judgment, it must show that it is entitled to prevail on each element of its cause of action. *Ortega-Carter v. Am. Int'l Adjustment Co.*, 834 S.W.2d 439, 441 (Tex.App.-Dallas 1992, writ denied). The plaintiff meets this burden if it produces evidence that would be sufficient to support an instructed verdict at trial. *Id.* Once the plaintiff establishes its right to summary judgment as a matter of law, the burden then shifts to the defendant as nonmovant to present evidence that raises a genuine issue of material fact, thereby precluding summary judgment. *City of Houston v. Clear Creek Basin Auth.*, 589 S.W.2d 671, 678-79 (Tex.1979). In reviewing a summary judgment, we accept as true all evidence supporting the nonmovant.

Summary

Clear explanation of the process and requirements for a summary judgment in Texas. It outlines the burden of proof on the plaintiff to establish entitlement to summary judgment and the subsequent shift of burden to the defendant to present evidence of a genuine issue of material fact. This is a general principle applicable to summary judgment proceedings in Texas courts.

[Montgomery v. Kennedy, 669 S.W.2d 309 \(Tex. 1984\)](#)

Texas Supreme Court

Extract

The standards for review of summary judgment evidence are well established. Defendants moving for summary judgment must expressly present and conclusively prove all essential elements of their defense as a matter of law; there can be no genuine issues of material fact. *City of Houston v. Clear Creek Basin Authority*, 589 S.W.2d 671, 678 (Tex.1979); *Gibbs v. General Motors Corp.*, 450 S.W.2d 827 (Tex.1970). In deciding whether there is a disputed material fact issue precluding summary judgment, evidence favorable to the non-movants will be taken as true. *Cowden v. Bell*, 157 Tex. 44, 46, 300 S.W.2d 286, 287 (1957). Every reasonable inference from the evidence must be indulged in favor of the non-movants and any doubts resolved in their favor.

Summary

Clear explanation of the standards for summary judgment in Texas. It specifies that the party moving for summary judgment must conclusively prove all essential elements of their defense as a matter of law, and there must be no genuine issues of material fact. Additionally, it emphasizes that evidence favorable to the non-movants should be taken as true, and any

doubts should be resolved in their favor. This establishes a framework for how summary judgments are reviewed and applied in Texas courts.

[City of Houston v. Clear Creek Basin Authority, 589 S.W.2d 671, 23 Tex.Sup.Ct.J. 7 \(Tex. 1979\)](#)

Texas Supreme Court

Extract

A history of the summary judgment rule, rule 166-A, reflects that the high hopes of increasing judicial efficiency advanced by the proponents of the rule did not materialize... The trial court may not grant a summary judgment by default for lack of an answer or response to the motion by the non-movant when the movant's summary judgment proof is legally insufficient. The movant still must establish his entitlement to a summary judgment on the issues expressly presented to the trial court by conclusively proving all essential elements of his cause of action or defense as a matter of law... Summary judgments must stand on their own merits, and the non-movant's failure to answer or respond cannot supply by default the summary judgment proof necessary to establish the movant's right.

Summary

The passage provides insight into the procedural aspects of summary judgments in Texas. It highlights that under Rule 166-A, a summary judgment cannot be granted by default due to a lack of response from the non-movant if the movant's proof is insufficient. The movant must conclusively prove all essential elements of their case or defense to be entitled to a summary judgment. This ensures that summary judgments are based on the merits of the case rather than procedural defaults.

[Browning v. Prostok, 165 S.W.3d 336 \(Tex. 2005\)](#)

Texas Supreme Court

Extract

In a summary judgment motion brought under Texas Rule of Civil Procedure 166a(c), the moving party has the burden of showing that there is no genuine issue as to any material fact and that it is entitled to judgment as a matter of law. Provident Life Ins. Co. v. Knott, 128 S.W.3d 211, 215-16 (Tex. 2003).

Summary

Definition of summary judgment under Texas law, specifically under Texas Rule of Civil Procedure 166a(c). It states that the moving party must

demonstrate that there is no genuine issue of material fact and that they are entitled to judgment as a matter of law. This is a general principle applicable to summary judgment motions in Texas courts.

[Fort Worth Osteopathic Hosp., Inc. v. Reese, 148 S.W.3d 94 \(Tex. 2004\)](#)

Texas Supreme Court

Extract

The health care providers moved for summary judgment under both Rule 166a(c) and Rule 166a(i). Tex.R. Civ. P. 166a(c), 166a(i). To succeed in a motion for summary judgment under Rule 166a(c), a movant must establish that there is no genuine issue of material fact so that the movant is entitled to judgment as a matter of law. Tex.R. Civ. P. 166a(c). In deciding whether there is a disputed issue of material fact, every doubt must be resolved in favor of the nonmovant and evidence favorable to the nonmovant must be taken as true. *Cathey v. Booth*, 900 S.W.2d 339, 341 (Tex.1995); *Nixon v. Mr. Prop. Mgmt. Co.*, 690 S.W.2d 546, 548-49 (Tex.1985). Under Rule 166a(i), a movant must establish that '[a]fter adequate time for discovery... there is no evidence of one or more essential elements of a claim or defense on which an adverse party would have the burden of proof at trial.' Tex.R. Civ. P. 166a(i); see also *Johnson v. Brewer & Pritchard, P.C.*, 73 S.W.3d 193, 207 (Tex.2002). To defeat a Rule 166a(i) summary judgment motion, the nonmovant must produce summary judgment evidence raising a genuine issue of material fact. Tex.R. Civ. P. 166a(i); *Ford Motor Co. v. Ridgway*, 135 S.W.3d 598, 600 (2004). A genuine issue of material fact exists if the nonmovant produces more than a scintilla of evidence establishing the existence of the challenged element.

Summary

Detailed explanation of how summary judgment is defined and applied under Texas law. Rule 166a(c) requires the movant to show no genuine issue of material fact exists, entitling them to judgment as a matter of law. Rule 166a(i) requires the movant to demonstrate that there is no evidence of one or more essential elements of a claim or defense after adequate discovery. The nonmovant can defeat a summary judgment motion by producing evidence that raises a genuine issue of material fact.

[Diversicare General Partner, Inc. v. Rubio, 185 S.W.3d 842 \(Tex. 2005\)](#)

Texas Supreme Court

Extract

Summary judgment is appropriate when there is no genuine issue as to any material fact and judgment should be granted in favor of the movant as a

matter of law. KPMG Peat Marwick v. Harrison County Hous. Fin. Corp., 988 S.W.2d 746, 748 (Tex.1999). A defendant moving for summary judgment on the affirmative defense of limitations has the burden to conclusively establish that defense, including the accrual date of the cause of action. Id.; see also Provident Life & Accident Ins. Co. v. Knott, 128 S.W.3d 211, 220 (Tex.2003). If the movant establishes that the statute of limitations bars the action, the nonmovant must then adduce summary judgment proof raising a fact issue in avoidance of the statute of limitations. KPMG Peat Marwick, 988 S.W.2d at 748. When reviewing a summary judgment, we take as true all competent evidence favorable to the nonmovant, and we indulge every reasonable inference and resolve any doubts in the nonmovant's favor. Southwestern Elec. Power Co. v. Grant, 73 S.W.3d 211, 215 (Tex.2002) (citing Science Spectrum, Inc. v. Martinez, 941 S.W.2d 910, 911 (Tex.1997)). In reviewing a summary judgment, we consider all grounds presented to the trial court and preserved on appeal in the interest of judicial economy. Knott, 128 S.W.3d at 216; Cincinnati Life Ins. Co. v. Cates, 927 S.W.2d 623, 626 (Tex.1996).

Summary

Definition and application of summary judgment under Texas law. It explains that summary judgment is appropriate when there is no genuine issue of material fact and the movant is entitled to judgment as a matter of law. It also outlines the burden on the defendant to establish an affirmative defense, such as the statute of limitations, and the requirement for the nonmovant to raise a fact issue to avoid summary judgment. The passage further describes the standard of review for summary judgments, emphasizing the consideration of evidence in favor of the nonmovant and the importance of judicial economy.

[Dolcefino v. Randolph, 19 S.W.3d 906 \(Tex. App. 2000\)](#)

Texas Court of Appeals

Extract

Appellants filed a traditional motion for summary judgment under Texas Rule of Civil Procedure 166a(b) and, alternatively, a no-evidence motion for summary judgment under Rule 166a(i). ... Specifically, in reviewing a traditional motion for summary judgment, we take as true all evidence favorable to the non-movant, and we make all reasonable inferences in the non-movant's favor. ... If the movant's motion and summary judgment proof facially establish his right to judgment as a matter of law, the burden shifts to the non-movant to raise a material fact issue sufficient to defeat summary judgment. ... We review a no-evidence summary judgment by ascertaining whether the non-movant produced any evidence of probative force to raise a fact issue on the material questions presented. ... The party moving for a no-evidence summary judgment should specifically state the elements as to which there is no evidence.

Summary

Detailed explanation of how summary judgment is defined and applied under Texas law. It distinguishes between traditional and no-evidence summary judgments under Texas Rule of Civil Procedure 166a. A traditional summary judgment requires the movant to establish a right to judgment as a matter of law, shifting the burden to the non-movant to raise a material fact issue. A no-evidence summary judgment requires the non-movant to produce evidence of probative force to raise a fact issue, with the movant specifying the elements lacking evidence.

[34 Tex. Admin. Code § 43.225 34 Tex. Admin. Code § 43.225 Summary Disposition](#)

Extract

A party may move with or without supporting affidavits for a summary disposition any time after an appeal has been referred for an adjudicative hearing. The motion for summary disposition shall specify the grounds for resolving the appeal without an evidentiary hearing. The motion and any supporting affidavits shall be filed and served at least 30 days before the time specified for the hearing. The motion may be granted if the pleadings, discovery, affidavits, stipulation of the parties, and authenticated or certified public records submitted in support of the motion show that there is no genuine issue as to any material fact and the moving party is entitled to summary disposition as a matter of law on the issues expressly set out in the motion.

Summary

Definition and application of summary disposition within the context of the Teacher Retirement System of Texas. It outlines the procedure for filing a motion for summary disposition, including the requirement for filing and serving the motion at least 30 days before the hearing. It also specifies that the motion can be granted if there is no genuine issue of material fact and the moving party is entitled to summary disposition as a matter of law. This is similar to the concept of summary judgment in broader legal contexts, where a case can be resolved without a full trial if there are no disputed material facts.

[7 Tex. Admin. Code § 9.23 7 Tex. Admin. Code § 9.23 Summary Judgment](#)

Extract

At any time after a notice of hearing is issued, a party may move for a summary judgment on all or any part of a claim or defense. Except as set out in this section, the finance commission agencies adopt, by reference, the summary judgment procedure in Rule 166a, Texas Rules of Civil Procedure.

In addition, the following requirements shall also apply: The administrative law judge shall hear oral argument on all motions for summary judgment unless the judge expressly waives this requirement. Before filing the motion, the party moving for summary judgment, in consultation with the administrative law judge's clerk, must schedule the motion for submission on oral argument at least 21 days after the date on which it is filed. If there is an applicable statutory deadline by which the agency must hold a hearing, the submission date must be within the deadline unless it has been waived by both parties. The party moving for summary judgment must serve on all opposing parties, with a copy of the motion for summary judgment, a notice containing the following information: (A) the time, date, and place when the administrative law judge will hear oral argument on the motion; (B) disclosure that any party opposing the motion must file affidavits, other written material, and any cross-claims or counterclaims, with the administrative law judge by the close of business seven days before the date of submission on oral argument; (C) disclosure that the administrative law judge may take the allegations in the motion as true unless contested by opposing parties through affidavits or other written material; and (D) disclosure that the administrative law judge will not hear any oral testimony related to the motion.

Summary

Process for filing and scheduling a motion for summary judgment, the requirement for oral arguments, and the obligations of the party moving for summary judgment to notify opposing parties and provide necessary disclosures.

[30 Tex. Admin. Code § 80.137](#) [30 Tex. Admin. Code § 80.137 Summary Disposition](#)

Extract

After the preliminary hearing and up to 21 days before the evidentiary hearing, a party may file a motion for a summary disposition of all or any part of an action. The motion shall state the specific issues upon which summary disposition is sought, and the specific grounds justifying the summary disposition... Summary disposition shall be rendered if the pleadings, admissions, affidavits, stipulations, deposition transcripts, interrogatory answers, other discovery responses, exhibits and authenticated or certified public records, if any, on file in the case at the time of the hearing, or filed thereafter and before judgment with the permission of the judge, show that there is no genuine issue as to any material fact and the moving party is entitled to summary disposition as a matter of law on all or some of the issues expressly set out in the motion or in an answer or any other response.

Summary

Detailed procedure for filing a motion for summary disposition in the context of contested case hearings under the Texas Commission on Environmental Quality. It outlines the timeline for filing such a motion, the requirements for the motion, and the conditions under which summary disposition can be granted. This is a specific application of summary judgment principles within a particular administrative context in Texas.

[1 Tex. Admin. Code § 155.505 1 Tex. Admin. Code § 155.505 Summary Disposition](#)

Extract

Summary disposition shall be granted on all or part of a contested case if the pleadings, the motion for summary disposition, and the summary disposition evidence show that there is no genuine issue as to any material fact and that the moving party is entitled to a decision in its favor as a matter of law on all or some of the issues expressly set out in the motion. Summary disposition is not permitted based on the ground that there is no evidence of one or more essential elements of a claim or defense on which the opposing party would have the burden of proof at hearing.

Summary

The Texas Administrative Code provides a framework for summary disposition in contested cases. Summary disposition is similar to summary judgment in that it allows for a decision without a full evidentiary hearing if there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law. However, it cannot be granted solely on the basis that there is no evidence for essential elements of a claim or defense that the opposing party would need to prove at a hearing. This indicates that summary disposition is a procedural tool used to expedite cases where the facts are undisputed and the law clearly favors one party.

[16 Tex. Admin. Code § 21.69 16 Tex. Admin. Code § 21.69 Summary Decision](#)

Extract

The presiding officer may grant a motion for summary decision on any or all issues to the extent that the pleadings, affidavits, materials obtained by discovery or otherwise, admissions, matters officially noticed, or evidence of record show that there is no genuine issue as to any material fact and that the moving party is entitled to a decision in its favor, as a matter of law, on the issues expressly set forth in the motion.

Summary

Definition and application of a summary decision within the context of the Texas Administrative Code. It outlines the conditions under which a presiding officer may grant a motion for summary decision, emphasizing the absence of any genuine issue of material fact and the entitlement of the moving party to a decision as a matter of law. This is similar to the concept of summary judgment in broader legal contexts, where a court may decide a case without a full trial if there are no disputed material facts.

[Tex. Tax Code § 42.23 Tex. Tax Code § 42.23 Scope of Review](#)

Extract

For purposes of a no-evidence motion for summary judgment filed by a party to an appeal under this chapter, the offer of evidence, including an affidavit or testimony, by any person, including the appraisal district, the property owner, or the owner's agent, that was presented at the hearing on the protest before the appraisal review board constitutes sufficient evidence to deny the motion.

Summary

The passage provides specific guidance on the application of a no-evidence motion for summary judgment in the context of property tax appeals under Chapter 42 of the Texas Tax Code. It clarifies that evidence presented at a prior hearing can be sufficient to deny such a motion, which is a procedural aspect of summary judgment in this specific legal context.

[1 Tex. Admin. Code § 12.44 1 Tex. Admin. Code § 12.44 Motion For Summary Disposition](#)

Extract

Summary disposition shall be granted on all or part of a complaint's allegations if the allegations, the motion for summary disposition, and the summary disposition evidence show that there is no genuine issue as to any material fact and that the moving party is entitled to a decision in its favor as a matter of law on all or some of the issues expressly set out in the motion. Summary disposition is not permitted based on the ground that there is no evidence of one or more essential elements of a claim or defense on which the opposing party would have the burden of proof at the formal hearing.

Summary

The material specifically addresses the procedure for summary disposition within the Texas Ethics Commission's framework. It outlines the conditions under which summary disposition can be granted, emphasizing that it is applicable when there is no genuine issue of material fact and the moving party is entitled to a decision as a matter of law. It also specifies that summary disposition cannot be based solely on the absence of evidence for essential elements of a claim or defense.

[16 Tex. Admin. Code § 22.182](#) [16 Tex. Admin. Code § 22.182 Summary Decision](#)

Extract

The presiding officer, on motion by any party, may grant a motion for summary decision on any or all issues to the extent that the pleadings, affidavits, materials obtained by discovery or otherwise, admissions, matters officially noticed in accordance with § 16 22.222 of this title (relating to Official Notice), or evidence of record show that there is no genuine issue as to any material fact and that the moving party is entitled to a decision in its favor, as a matter of law, on the issues expressly set forth in the motion.

Summary

A summary decision in the context of the Public Utility Commission of Texas is similar to a summary judgment in civil court. It allows a presiding officer to decide a case without a full hearing if there is no genuine issue of material fact and the moving party is entitled to a decision as a matter of law. This is applicable specifically to cases under the Public Utility Commission of Texas, indicating that it may not be generally applicable to all legal proceedings in Texas.

[Summary Judgment Practice](#)

Texas Employment Law. Volume 2 - 2016 - James Publishing - Jeffrey C. Londa, Lara Cardin de Leon & Laura M. Franze - 2016-07-27

Extract

Summary judgment practice has played an important role in employment lawsuits filed in Texas federal courts for a number of years. Recently, there has been an increase in the use of summary judgments in Texas state courts. This is due to a combination of factors. Prior to 1997, many attorneys perceived, accurately or not, that it was easier to get summary judgment in federal court than state court. In 1997, the state summary judgment rule was amended to conform with the burden of proof under the federal rules (see §41:2.A.2). Therefore, there may no longer be a significant difference

between filing summary judgment in federal court and filing in state court. The amendment to the state summary judgment rule has made it easier to file and, arguably, to obtain summary judgment. The process for filing summary judgment varies from state to federal court, but the grounds are the same regardless of where the case is filed. Summary judgment is sought and granted when there are no issues of material fact and the moving party is entitled to summary judgment as a matter of law. TEX. R. CIV. P. 166a(a); FED. R. CIV. P. 56(c).

Summary

Clear definition and application of summary judgment under Texas law. It explains that summary judgment is used when there are no material facts in dispute and the moving party is entitled to judgment as a matter of law. It also notes the alignment of Texas state rules with federal rules post-1997, making it easier to file and obtain summary judgment in Texas state courts.

[Summary judgment practice](#)

Texas Employment Law. Volume 1 - James Publishing - Jeffrey C. Londa, Lara Cardin De Leon & Laura M. Franze - 2018-05-05

Extract

Summary judgment in Texas state courts is governed by Texas Rule of Civil Procedure 166a. Either party may move for summary judgment, but the burden... A summary judgment response is not technically required in either state or federal court. However, failing to file a response will almost certainly be fatal for the non-movant, especially when the movant files a no-evidence summary judgment motion.

Summary

The passage provides insight into the procedural aspects of summary judgment in Texas state courts, specifically under Texas Rule of Civil Procedure 166a. It highlights that either party can move for summary judgment and discusses the importance of responding to such motions. The information is applicable to summary judgment practice in general, not limited to specific cases.

[Summary Judgment](#)

Employment Evidence - James Publishing - David W. Neel - 2022-04-01

Extract

In your opposition papers, cite the applicable standards indicating that the court cannot evaluate the credibility of witnesses, and that the moving party has the burden of proof. *Webb v. Cardiothoracic Surgery Associates of North Texas*, 139 F.3d 532, 536 (5th Cir. 1998). Also, emphasize that summary judgment is a drastic measure, and should not be granted lightly.

Summary

The passage provides insight into the standards and considerations for summary judgment, emphasizing that it is a drastic measure and should not be granted lightly. It also highlights that the moving party has the burden of proof and that the court cannot evaluate the credibility of witnesses. This is relevant to understanding how summary judgment is applied under Texas law, particularly in employment cases.

[Summary Judgment Practice and Procedure](#)

Litigating Employment Discrimination Cases. Volume 1-2 - James Publishing - Andrew H. Friedman - 2023-05-01

Extract

Under Rule 56, a court should grant a motion for summary judgment 'if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law.' FRCP 56(c).

Summary

Definition of summary judgment under Rule 56 of the Federal Rules of Civil Procedure, which is relevant to understanding how summary judgment is generally defined and applied. While the passage does not specifically address Texas law, the federal rule is often mirrored in state rules, including Texas, making it relevant for understanding the general principles that might apply in Texas.

[Summary judgment](#)

Litigating Sexual Harassment & Sex Discrimination Cases - James Publishing - Aaron B. Maduff - 2022-05-06

Extract

a defendant can intone "summary judgment" and sit back and watch... While courts have historically been very sympathetic to summary judgment and

permitted even the most basic of motions, more recently some judges have begun to disfavor it. Such motions require a great deal of time and resources from a judge, and if he denies the motion he will have to go through it all again at trial. As a general rule, it is best not to file the motion unless you have a reasonable chance of prevailing... Summary judgment motions are time-consuming and expensive. If the motion is denied, you will have educated the plaintiff on the key issues and facts that you will now have to argue at trial... The mere existence of some alleged factual dispute between the parties will not defeat a motion for summary judgment; the requirement is that there be no genuine issue of material fact... An issue is 'genuine' if the evidence is sufficient to persuade a reasonable jury to return a verdict for the nonmoving party... As to materiality, the substantive law will identify which facts are material. Factual disputes that are irrelevant or unnecessary will not be counted.

Summary

Summary judgment is a legal procedure where a party can seek to have a case decided without a trial if there are no genuine issues of material fact. The passage highlights that summary judgment motions are often disfavored by judges due to the resources they require and the potential for educating the opposing party on key issues. The passage also clarifies that a genuine issue is one where the evidence could lead a reasonable jury to find in favor of the nonmoving party, and material facts are those identified by substantive law as relevant to the case.

[Summary Judgment](#)

ANDA Litigation. Strategies and Tactics For Pharmaceutical Patent Litigators - American Bar Association - Gregory S. Gewirtz, Daniel P. Laine - 2020-01-01

Extract

burden in establishing entitlement to summary judgment as a matter of law is equal to the burden that the movant would face at trial. Where the movant is the defendant who bears no burden of persuasion at trial on plaintiff's claim for relief, defendant is entitled to grant of summary judgment if, as movant, he establishes the absence of any proof by the nonmovant as to a necessary element of the nonmovant's claim. Once the movant makes a *prima facie* showing of entitlement to judgment, the burden shifts to the nonmovant to demonstrate with specific evidence a genuine dispute of material fact, with the benefit of all reasonable inferences drawn in its favor. In order for a nonmovant to dispute a fact asserted by the movant, the nonmovant can do one or more of the following: (1) cite to particular parts of materials in the record that support the assertion that the movant's fact is disputed; (2) show that the materials cited by the movant do not establish the absence or presence of a genuine dispute; or (3) show that the movant cannot produce admissible evidence to support the fact.

Summary

Burden of proof required for a party to be entitled to summary judgment, which is equivalent to the burden at trial. It explains that if the movant (often the defendant) can show the absence of evidence for a necessary element of the nonmovant's (often the plaintiff's) claim, they may be granted summary judgment. The burden then shifts to the nonmovant to show a genuine dispute of material fact. This process is generally applicable to summary judgment motions, though the document is focused on pharmaceutical patent litigation.

[Business Litigation](#)

Texas Small-Firm Practice Tools. Volume 1-2 - James Publishing - Cindy Stormer - 2022-05-05

Extract

Summary judgment provides a method of summarily terminating a case when it clearly appears that only a question of law is involved and that there is no genuine fact issue. The party moving for summary judgment carries the burden of establishing that no material issue of fact exists and that it is entitled to judgment as a matter of law. [TRCP 166a(c); Nixon v. Mr. Prop. Mgmt. Co., 690 S.W.2d 546, 548-49 (Tex. 1985).] In resolving the issue of whether the movant has carried this burden, the reviewing court will take as true all evidence favorable to the nonmovant and resolve all doubts in the nonmovant's favor. [See Williams v. First Tennessee Nat. Corp., 97 S.W.3d 798, 802 (Tex. App.—Dallas 2003, no writ) (citing Lear Siegler, Inc. v. Perez, 819 S.W.2d 470, 471 (Tex. 1991)).] Where the defendants are the movants and they submit summary judgment evidence disproving at least one essential element of each of the plaintiff's causes of action, summary judgment should be granted. Furthermore, where, as here, the trial court's order granting summary judgment does not specify the ground or grounds on which it bases its ruling, summary judgment will be affirmed on appeal if any of the theories advanced in the motion for summary judgment is meritorious. [Williams v. First Tennessee Nat. Corp., 97 S.W.3d 798, 802 (Tex. App.—Dallas 2003, no writ).]

Summary

Clear definition and application of summary judgment under Texas law. It explains that summary judgment is a legal procedure used to terminate a case when only legal questions are involved, and no genuine issues of material fact exist. The burden is on the party moving for summary judgment to prove that no material fact issues exist and that they are entitled to judgment as a matter of law. The court must view all evidence in favor of the nonmovant and resolve any doubts in their favor. If the defendants can disprove at least one essential element of the plaintiff's case, summary judgment should be granted. The passage also notes that if the trial court's order does not specify the grounds for granting summary

judgment, it will be upheld on appeal if any of the theories in the motion are valid.

[Attacking the Opposing Expert](#)

Qualifying & Attacking Expert Witnesses - James Publishing - David J. Galluzzo - 2022-05-04

Extract

When evidence in support of a summary judgment motion shows clearly that the moving party would be entitled to a directed verdict were the case to proceed to trial, a motion should be granted unless the opposing party can provide adequate reason for an inability to offer facts that would preclude summary disposition of the case. Because of the increased utilization of the summary judgment procedures consider retaining your experts early in the litigation to effectively oppose a summary judgment motion. Make certain that your expert's affidavit is significantly probative, is not conclusory, not based on hearsay or not otherwise inadmissible opinion evidence.

Summary

The passage provides insight into the application of summary judgment procedures, emphasizing the importance of evidence that would entitle the moving party to a directed verdict. It highlights the necessity for the opposing party to present adequate facts to preclude summary judgment and underscores the role of expert testimony in this process. The passage is relevant to understanding how summary judgment is applied, particularly in cases involving expert witnesses.

[KEEPING FAITHFUL TO THE FACTS.](#)

Case Western Reserve Law Review - Case Western Reserve University School of Law - 2023-09-22

Extract

For summary judgment motions, federal courts follow Federal Rule of Civil Procedure 56. Summary judgment is appropriate only if 'the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law.' In this determination, the 'court must view the evidence 'in the light most favorable to the opposing party.'' And the court examines the record as a whole, including 'pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits.'

Summary

Definition of summary judgment and outlines the standard for granting it, which involves the absence of a genuine dispute over any material fact and entitlement to judgment as a matter of law. It also describes the process of reviewing evidence in the light most favorable to the non-moving party. Although the passage specifically refers to federal courts, Texas courts apply similar principles under Texas Rule of Civil Procedure 166a, making the information relevant to understanding summary judgment in Texas.

[Attacking the Opposing Expert](#)

**Qualifying & Attacking Expert Witnesses - 2020 - James Publishing -
David J. Galluzzo - 2020-08-04**

Extract

When evidence in support of a summary judgment motion shows clearly that the moving party would be entitled to a directed verdict were the case to proceed to trial, a motion should be granted unless the opposing party can provide adequate reason for an inability to offer facts that would preclude summary disposition of the case. Because of the increased utilization of the summary judgment procedures consider retaining your experts early in the litigation to effectively oppose a summary judgment motion. Make certain that your expert's affidavit is significantly probative, is not conclusory, not based on hearsay or not otherwise inadmissible opinion evidence.

Summary

The passage provides insight into the application of summary judgment by explaining that it is granted when the evidence clearly shows entitlement to a directed verdict, unless the opposing party can present facts to preclude summary disposition. It emphasizes the importance of expert testimony in opposing summary judgment motions, highlighting the need for affidavits to be probative and not merely conclusory.

[Civil Litigation](#)

**Texas Small-Firm Practice Tools. Volume 1-2 - James Publishing -
Cindy Stormer - 2022-05-05**

Extract

A motion for summary judgment requests the court to render judgment for the moving party on the grounds that no genuine issue of material fact exists, and the law entitles movant to judgment. Any party may move for summary judgment. When preparing the motion for summary judgment, you should begin with the list of the elements of the plaintiff's claim or the

defendant's affirmative defense. The standards for reviewing a summary judgment are well established. It is incumbent upon the movant in a summary judgment proceeding to demonstrate, through the motion and its supporting evidence: (1) there is no genuine issue of material fact and (2) he is entitled to judgment as a matter of law. [Nixon v. Mr. Property Management Co., 690 S.W.2d 546, 548-549 (Tex. 1985).] No act by a non-movant can divest the movant of this burden. Even if the non-movant does not file a response and the motion is uncontested, the movant still carries the burden of proof. [Houston v. Clear Creek Basin Auth., 589 S.W.2d 671, 678 (Tex. 1979).] Furthermore, proof there are no disputed facts does not automatically entitle the movant to summary judgment. The movant must still show, under those undisputed facts, Texas law directs judgment in his favor.

Summary

Requirements for a summary judgment, emphasizing the movant's burden to prove the absence of material factual disputes and entitlement to judgment as a matter of law. The passage also references specific Texas case law that supports these principles.

[Attacking the Opposing Expert](#)

Qualifying & Attacking Expert Witnesses - 2019 - James Publishing - David J. Galluzzo - 2019-08-04

Extract

judgment or a summary adjudication of issues may be granted when there is no genuine issue of a material fact. Expert testimony is being used with greater frequency to establish that there is no factual basis for a claim or a defense. ... Summary judgment procedures have been utilized to test the reliability of expert testimony and whether the experts are basing their conclusions on insufficient or inaccurate information. ... When evidence in support of a summary judgment motion shows clearly that the moving party would be entitled to a directed verdict were the case to proceed to trial, a motion should be granted unless the opposing party can provide adequate reason for an inability to offer facts that would preclude summary disposition of the case.

Summary

The passage provides insight into the application of summary judgment, particularly in cases involving expert testimony. It explains that summary judgment may be granted when there is no genuine issue of material fact, and it highlights the role of expert testimony in establishing the factual basis for claims or defenses. The passage also notes the importance of the reliability of expert testimony in summary judgment procedures.

[Sora Technologies, LLC v. Harpco Systems, Inc., 122117 USPTAB, 91230235](#)

Trademark Trial and Appeal Board

Extract

Summary judgment is an appropriate method of disposing of cases in which there are no genuine disputes as to any material fact, thus leaving the case to be resolved as a matter of law. See Fed. R. Civ. P. 56(a). The party moving for summary judgment has the initial burden of demonstrating that there is no genuine issue of material fact remaining for trial and that it is entitled to judgment as a matter of law. See Celotex Corp. v. Catrett, 477 U.S. 317 ; Sweats Fashions Inc. v. Pannill Knitting Co. Inc., 833 F.2d 1560, 4 U.S.P.Q.2d 1793 (Fed. Cir. 1987). The nonmoving party must be given the benefit of all reasonable doubt as to whether genuine issues of material fact exist, and the evidentiary record on summary judgment, and all inferences to be drawn from the undisputed facts, ... When the moving party's motion is supported by evidence sufficient to indicate that there is no genuine issue of material fact, and that the moving party is entitled to judgment, the burden shifts to the nonmoving party to demonstrate the existence of specific genuinely-disputed facts that must be resolved at trial. The nonmoving party may not rest on the mere allegations of its pleadings and assertions of counsel, but must designate specific portions of the record or produce additional evidence showing the existence of a genuine issue of material fact for trial. In general, to establish the existence of disputed facts requiring trial, the nonmoving party 'must point to an evidentiary conflict created on the record at least by a counterstatement of facts set forth in detail in an affidavit by a knowledgeable affiant.' Octocom Sys. Inc. v. Houston Computers Servs. Inc., 918 F.2d 937, 941, 16 U.S.P.Q.2d 1783, 1786 (Fed.

Summary

Burden of proof on the moving party to demonstrate the absence of material fact disputes and the entitlement to judgment as a matter of law. It also describes the nonmoving party's responsibility to show specific disputed facts that require a trial. This information is applicable to summary judgment procedures in general, including under Texas law, as it references federal rules and case law.

[2323 N. Milwaukee LLC v. Winery Exchange, Inc., 021216 USPTAB, 91221974](#)

Trademark Trial and Appeal Board

Extract

Summary judgment is an appropriate method of disposing of cases in which there is no genuine dispute with respect to any material fact, thus leaving the case to be resolved as a matter of law. See Fed. R. Civ. P. 56(c). A party moving for summary judgment has the burden of demonstrating the absence

of any genuine dispute as to a material fact, and that it is entitled to judgment as a matter of law. See Celotex Corp. v. Catrett, 477 U.S. 317, 323 . The evidence of record and all justifiable inferences that may be drawn from the undisputed facts must be viewed in the light most favorable to the non-moving party. See Lloyd's Food Products Inc. v. Eli's Inc., 987 F.2d 766, 25 U.S.P.Q.2d 2027 (Fed. Cir. 1993). When a moving party's motion for summary judgment demonstrates that there is no genuine dispute as to any material fact and the moving party is entitled to judgment, the burden shifts to the nonmoving party to demonstrate the existence of a genuine dispute regarding at least one material fact which requires resolution at trial. The nonmoving party, however, may not rest on the mere allegations of its pleadings and assertions, but must designate specific portions of the record or produce additional evidence showing the existence of a genuine dispute as to a material fact for trial. See Barmag Barmer Maschinenfabrik AG v. Murata Machinery, Ltd., 731 F.3d 831, 221 U.S.P.Q. 561, 564 (Fed. Cir. 1984) ('The party opposing the motion must point to an evidentiary conflict created on the record at least by a counter statement of a fact or facts set forth in detail in an affidavit by a knowledgeable affiant.').

Summary

Summary judgment is a legal procedure used to resolve cases without a trial when there is no genuine dispute over any material fact. The moving party must show that there is no genuine dispute and that they are entitled to judgment as a matter of law. If successful, the burden shifts to the nonmoving party to show a genuine dispute exists. This process is guided by federal rules and case law, which are applicable in Texas.

[Sanderson v. Allura Imports Inc., 053117 USTTAB, 92061702](#)

Trademark Trial and Appeal Board

Extract

Summary judgment is an appropriate method of disposing of cases in which there are no genuine disputes as to material facts, thus allowing resolution as a matter of law. See Fed. R. Civ. P. 56(c). In deciding motions for summary judgment, the Board must follow the well-established principles that, in considering the propriety of summary judgment, all evidence must be viewed in a light favorable to the non-movant, and all justifiable inferences are to be drawn in the non-movant's favor. The Board may not resolve disputes of material fact; it may only ascertain whether such disputes exist. ... The burden is on the party moving for summary judgment to demonstrate the absence of any genuine dispute of material fact, and that it is entitled to summary judgment as a matter of law. Fed.R.Civ.P. 56(c). When a moving party's motion for summary judgment is supported by evidence sufficient to indicate that there is no genuine dispute as to any material fact and that the moving party is entitled to judgment, the burden shifts to the non-moving party to demonstrate the existence of at least one genuine dispute as to a material fact that requires resolution at trial. The non-moving

party may not rest on the mere allegations of its pleadings and assertions, but must designate specific portions of the record or produce additional evidence showing the existence of a genuine dispute as to a material fact for trial.

Summary

Process and burden of proof required for summary judgment, which involves the moving party demonstrating the absence of material fact disputes and the non-moving party needing to show evidence of such disputes. This is consistent with the principles applied in Texas law, as Texas follows similar rules for summary judgment as outlined in the Federal Rules of Civil Procedure.

[Meeshaa Inc. v. Anaya Gems Inc., 073117 USSTAB, 91219631](#)

Trademark Trial and Appeal Board

Extract

Summary judgment is appropriate where the movant shows that there is no genuine dispute as to any material fact and that it is entitled to judgment as a matter of law. Fed.R.Civ.P. 56(a). A party asserting that a fact cannot be or is genuinely disputed must support its assertion by either citing to particular parts of materials in the record, or showing that the materials cited do not establish the absence or presence of a genuine dispute, or that an adverse party cannot produce admissible evidence to support the fact. Fed.R.Civ.P. 56(c). A movant for summary judgment carries the burden of proof in regard to its motion. See Celotex Corp. v. Catrett, 477 U.S. 317, 323-24 . In deciding the motion, the function of the Board is not to try issues of fact, but to determine if there are any genuine disputes of material fact to be tried.

Summary

Definition of summary judgment as per the Federal Rules of Civil Procedure, which is relevant because Texas law follows similar principles. It explains that summary judgment is appropriate when there is no genuine dispute of material fact and the movant is entitled to judgment as a matter of law. The passage also outlines the burden of proof on the movant and the role of the court in determining the presence of genuine disputes of material fact.

[Olympic Well & Pump Service LLC v. Brooks, 122220 USSTAB, 92071051](#)

Trademark Trial and Appeal Board

Extract

Summary judgment is an appropriate method of disposing of cases in which there is no genuine dispute with respect to any material fact, thus allowing the case to be resolved as a matter of law. See Fed. R. Civ. P. 56(a). A party moving for summary judgment has the burden of demonstrating the absence of any genuine dispute as to a material fact, and that it is entitled to judgment as a matter of law. See Celotex Corp. v. Catrett, 477 U.S. 317, 323; Sweats Fashions, Inc. v. Pannill Knitting Co. Inc., 833 F.2d 1560, 4 U.S.P.Q.2d 1793, 1796 (Fed. Cir. 1987). A factual dispute is genuine if, on the evidence of record, a reasonable fact finder could resolve the matter in favor of the non-moving party. See Opryland USA Inc. v. ... 9, 16 U.S.P.Q.2d 1055, 1056 (Fed. Cir. 1990) ('If there is a real dispute about a material fact or factual inference, summary judgment is inappropriate; the factual dispute should be reserved for trial.'). When a moving party's motion for summary judgment is supported by evidence sufficient to indicate that there is no genuine dispute as to any material fact and the moving party is entitled to judgment, the burden shifts to the nonmoving party to demonstrate the existence of a genuine dispute regarding at least one material fact which requires resolution at trial. Embarcadero Techs., Inc. v. Delphix Corp., 117 U.S.P.Q.2d 1518, 1521 (TTAB 2016). The nonmoving party, however, may not rest on the mere allegations of its pleadings and assertions, but must designate specific portions of the record or produce additional evidence showing the existence of a genuine dispute as to a material fact for trial. See Barmag Barmer Maschinenfabrik AG v. Murata Machinery, Ltd., 731 F.3d 831, 221 U.S.P.Q. 561, 564 (Fed. Cir. 1984)

Summary

Definition and explanation of summary judgment, including the burden of proof on the moving party and the requirements for the nonmoving party to demonstrate a genuine dispute of material fact. It references federal rules and case law, which are applicable in Texas as Texas courts often look to federal interpretations for guidance on procedural matters like summary judgment.

[Pura Vida Vitamins, LLC v. Golden Isles Med., 072621 USTTAB, 92073371](#)

Trademark Trial and Appeal Board

Extract

Summary judgment is an appropriate method of disposing of cases in which there is no genuine dispute with respect to any material fact, thus allowing the case to be resolved as a matter of law. See Fed. R. Civ. P. 56(a). A party moving for summary judgment has the burden of demonstrating the absence of any genuine dispute as to a material fact, and that it is entitled to judgment as a matter of law. See Celotex Corp. v. Catrett, 477 U.S. 317, 323 ; Sweats Fashions, Inc. v. Pannill Knitting Co. Inc., 833 F.2d 1560, 4 U.S.P.Q.2d 1793, 1796 (Fed. Cir. 1987). A factual dispute is genuine if, on the

evidence of record, a reasonable fact finder could resolve the matter in favor of the non-moving party.

Summary

Definition of summary judgment and outlines the burden on the moving party to demonstrate the absence of any genuine dispute as to a material fact. It also explains what constitutes a genuine factual dispute. This information is relevant to understanding how summary judgment is defined and applied, although it is based on federal rules, which are often mirrored in state laws, including Texas.

[International Beauty Exchange, Inc. v. K & N Distributors, 081117 USSTAB, 92063647](#)

Trademark Trial and Appeal Board

Extract

Summary judgment is an appropriate method of disposing of cases in which there are no genuine disputes as to any material facts and the moving party is entitled to judgment as a matter of law. Fed.R.Civ.P. 56(a). In reviewing a motion for summary judgment, the evidentiary record and all justifiable inferences to be drawn from the undisputed facts must be viewed in the light most favorable to the non-moving party.

Summary

Definition of summary judgment as a legal procedure used to resolve cases without a trial when there are no genuine disputes over material facts, and the moving party is entitled to judgment as a matter of law. It also describes the standard of review, which requires viewing the evidence in the light most favorable to the non-moving party. While this is based on federal rules, Texas law similarly allows for summary judgment under Texas Rule of Civil Procedure 166a, which aligns with the federal standard.

[Embarcadero Technologies, Inc. v. Delphix Corp., 012116 USSTAB, 91197762](#)

Trademark Trial and Appeal Board

Extract

Summary judgment is an appropriate method of disposing of cases in which there is no genuine dispute with respect to any material fact, thus leaving the case to be resolved as a matter of law. See Fed. R. Civ. P. 56(c). A party moving for summary judgment has the burden of demonstrating the absence of any genuine dispute as to a material fact, and that it is entitled to

judgment as a matter of law. See Celotex Corp. v. Catrett, 477 U.S. 317, 323 . The evidence of record and all justifiable inferences that may be drawn from the undisputed facts must be viewed in the light most favorable to the non-moving party. See Lloyd's Food Products Inc. v. Eli's Inc., 987 F.2d 766, 25 U.S.P.Q.2d 2027 (Fed. Cir. 1993). When a moving party's motion for summary judgment is supported by evidence sufficient to indicate that there is no genuine dispute as to any material fact and the moving party is entitled to judgment, the burden shifts to the nonmoving party to demonstrate the existence of a genuine dispute regarding at least one material fact which requires resolution at trial. The nonmoving party, however, may not rest on the mere allegations of its pleadings and assertions, but must designate specific portions of the record or produce additional evidence showing the existence of a genuine dispute as to a material fact for trial.

Summary

The passage explains the concept of summary judgment, the burden of proof on the moving party, and the requirements for the non-moving party to demonstrate a genuine dispute of material fact. It references federal rules and case law, which are generally applicable but not specific to Texas law.

[Embarcadero Technologies, Inc. v. Delphix Corp., 012116 USTTAB, 91197762](#)

Trademark Trial and Appeal Board

Extract

Summary judgment is an appropriate method of disposing of cases in which there is no genuine dispute with respect to any material fact, thus leaving the case to be resolved as a matter of law. See Fed. R. Civ. P. 56(c). A party moving for summary judgment has the burden of demonstrating the absence of any genuine dispute as to a material fact, and that it is entitled to judgment as a matter of law. See Celotex Corp. v. Catrett, 477 U.S. 317, 323 . The evidence of record and all justifiable inferences that may be drawn from the undisputed facts must be viewed in the light most favorable to the non-moving party. See Lloyd's Food Products Inc. v. Eli's Inc., 987 F.2d 766, 25 U.S.P.Q.2d 2027 (Fed. Cir. 1993). When a moving party's motion for summary judgment is supported by evidence sufficient to indicate that there is no genuine dispute as to any material fact and the moving party is entitled to judgment, the burden shifts to the nonmoving party to demonstrate the existence of a genuine dispute regarding at least one material fact which requires resolution at trial. The nonmoving party, however, may not rest on the mere allegations of its pleadings and assertions, but must designate specific portions of the record or produce additional evidence showing the existence of a genuine dispute as to a material fact for trial.

Summary

The passage explains the concept of summary judgment, the burden of proof on the moving party, and the requirements for the non-moving party to demonstrate a genuine dispute of material fact. This is relevant to understanding how summary judgment is applied in Texas, as Texas courts follow similar principles.

This memo was compiled by Vincent AI based on vLex materials available as of June 05, 2025. [View full answer on vLex](#)