

*Riley Fletcher 2024*

# To Plea or Not to Plea



An overview of municipal liability  
and the use of a plea to the  
jurisdiction.

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Beaumont City Attorney



# What to expect

- An overview of Municipal Liability
- The use of Plea to the Jurisdiction
- Random Hamlet facts

# What NOT to expect

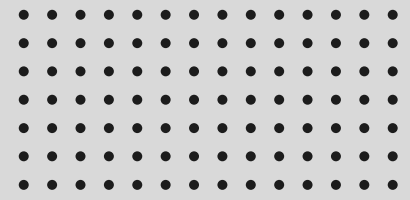
For me to be an expert.

| That I am not committed to this theme.

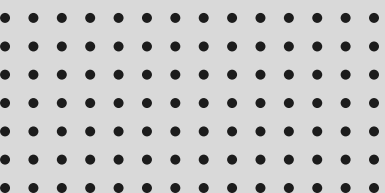
| A paper.



# Texas Tort Claims Act



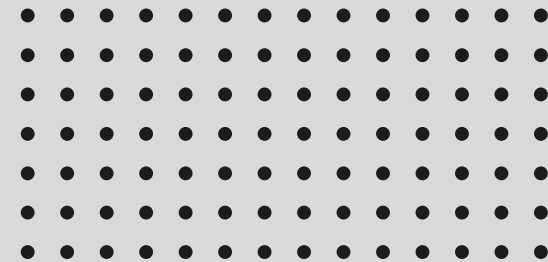
- Enacted in 1969 to waive sovereign immunity for government entities
- Determines when a government entity may be liable for tortious conduct
- Identifies who the Act applies to and the liable conduct
- Intended to prevent fraudulent/frivolous claims



# Immunity



- Official Immunity
  - acts within the course and scope of their duty
  - performing a discretionary duty
  - acts in good faith
- Sovereign Immunity
  - no liability for torts when agent or officer is performing a governmental function





# Governmental Functions

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Any function that are enjoined on a municipality by law and are given to it by the state as part of the state's sovereignty, to be exercised by the municipality in the interest of the municipality in the interest of the general public.



# Waiver of Immunity

- Operation or use of a motor-driven vehicle or motor-driven equipment
- Condition or use of a tangible personal property
- Condition or use of real property
- Only if employee personally liable

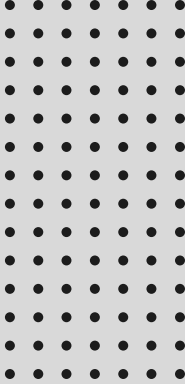


# Exceptions to Waiver of Immunity



- Discretionary Powers
- Civil Disobedience and Certain Intentional Torts
- Attractive Nuisances
- Traffic & Road Control Devices

# When to Plea...



- When it is apparent from the pleadings that the governmental unit is immune from suit. *Harris County v. Sykes*, 136 S.W.3d 635, 639 (Tex. 2004)
- When waiver of immunity is not expressly implied by legislature. *Wichita Falls State Hosp. v. Taylor*, 106 S.W.3d 692, 701 (Tex. 2003).
- When it is clear that the Court does not have jurisdiction. *Austin & N.W.R. Co. v. Cluck*, 97 Tex. 172, 77 S.W. 403, 405 (1903)

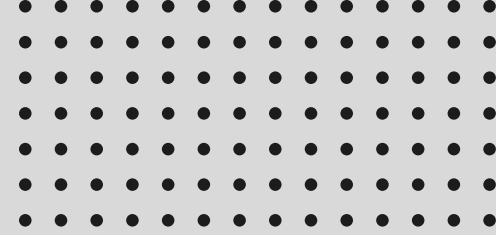


# Practice Tips

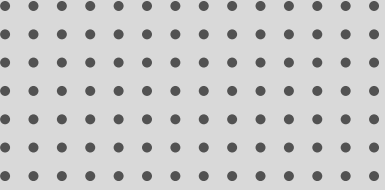


- File your Plea early
- Wait to request a hearing
- Be prepared to appeal

# Things to Consider



- The remedy to plea is to amend the petition
- Can also be asserted in Federal case when the Plaintiff is asserting state law claims, as an argument not as its own motion.



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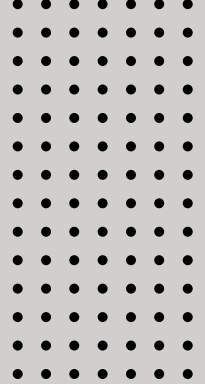
# Feeling Overwhelmed?

Reach out Slater C. Elza  
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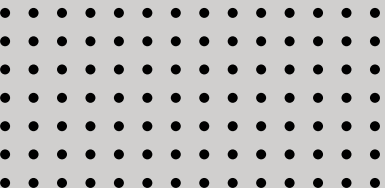




*The rest is silence.*



**Thank You.**



*Slutningen.*