

# Top 10 Things to Know about Civil Liability

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## What we are going to talk about

- 10,000 Foot view
- General Concept-trigger attorney Call
- Forget what you know or what you think you know



# Rule #1 All the Rules are different

- Civil liability is dramatically different
- City/Officials have certain immunities
- But some special laws apply only to them
- A trade off laws and rules

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## Meet Dewy Suem

- Dewy hates the Texas widget company
- Has sued multiple times
- Defamation, trespassing, theft, and negligence



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Suing a city is very different than suing a company





## //////////////////// Dewy Hates the City of Deep Pockets

- Dewy is the Mayor's cousin
- Dewy ran for Mayor and lost
- Now hates the City with a passion
- Try's to sue them same as he does the widget company



# The King Can Do No Wrong

- Sovereign Immunity
- You can not sue the king unless the king consents
- Texas statutes = consent
- No statutes = no consent = immunity



## Comparisons

Sued Widget for slander = \$15,000	Sued City for slander = Immune
Sued Widget for trespass = \$25,000	Sued City for trespass = immune
Sued Widget for Copy Rights = loss	Sued City for Copy Right = immune





## Rule # 2: Remember the Other Laws

- U.S. and Texas Constitution
- Texas Whistleblowers Act
- *Ultra vires*



## Apply only to the City

- Some good Some bad
- Not necessarily the stuff you expect



## Constitutional Violations

- Applies only to governmental entities
- First Amendment – Big one for employment
  - Employees have the right to question government just like anyone else
  - Council Meetings – Dewey Gets Thrown Out



## Rule # 3: Remember Section 101.106

- Texas Tort Claims Act
- Normal civil = joint and several liability
- Released employees/officials
- Can sue only the city
- Dewey Sues the Mayor



## Rule #4: Official Immunity

- Discretionary function
- Protects official from accidentally making the wrong call when they act in good faith



## Rule #5: Other individuals Immunities

- Legislative Immunity
- Qualified Immunity
- Prosecutorial Immunity
- Immunity from Suit
- Immunity from Liability



## Rule #6: Individual Constitutional Violations

- TTCA does not protect you from constitutional violations
- Individual liability
- Punitive damages allowed!

# Comparisons

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Sued Widget president for slander = \$0	Sued mayor for 1 <sup>st</sup> amendment violations = \$100,000
Sued Widget for false advertising = \$30,000	Sued mayor for due process violations = \$10,000
Sued Widget president for assault = \$10,000	Sued city police officer for excessive force = \$500,000





# Rule #7: Procedural Suits

- *Ultra-vires*
- Mandamus
- Injunction/declaratory relief
- TOMA (sometimes)



## Rule #8: Official vs. Individual Capacity

- Official capacity
- Course and scope of employment or position
- Individual capacity inside course and scope
- Individual capacity outside course and scope



## Rule #9: The Very Important Rule

- This next rule is second only to rule # 1
- Last rule = are you paying attention
- Last rule = Listen carefully



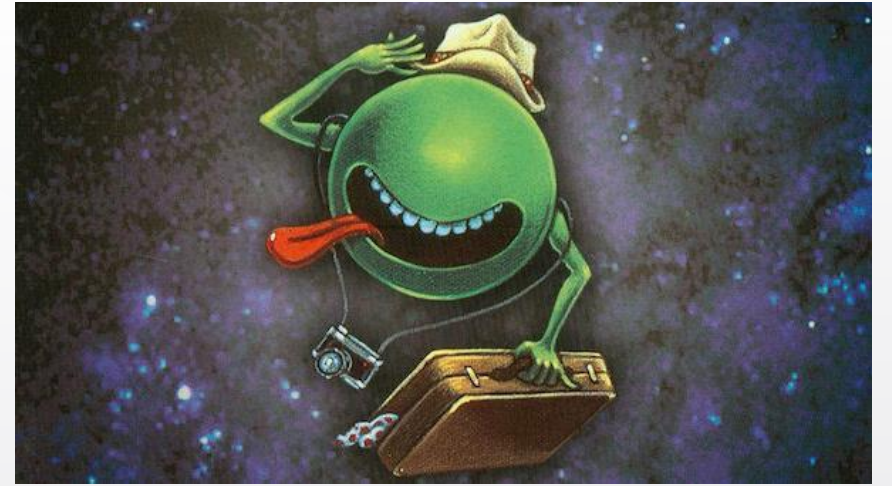
## Rule #9: Listen to your Attorney

- Areas are highly complex
- Individual liability can attach
- Proper assertion of immunities is essential

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## Rule #10: Hitchhiker's Guide to the Galaxy

- Don't panic
- Really don't panic
- Welcome to public services
- Don't panic





**THE END**