

TEXAS COURT OF APPEALS, FOURTH DISTRICT, SAN ANTONIO

Allan Roy Manka and The Law Offices of Allan R. Manka, P.C. v.
Michelle Teresa Acosta

No. 04-25-00089-CV (Tex. App.—San Antonio May 13, 2026) · No. 04-25-00089-CV · Decided May 13, 2026

SUMMARY

The Fourth Court of Appeals of Texas affirmed a final judgment in favor of Michelle Teresa Acosta on her claims for assault by offensive physical contact and intentional infliction of emotional distress. The court held that legally and factually sufficient evidence supported the assault finding and the jury’s mental-anguish damages award, and that any error in submitting the intentional-infliction claim was harmless. The opinion also addresses the dismissal of Allan Roy Manka’s counterclaims under Texas Rule of Civil Procedure 91a.

CASE DETAILS

COURT	Texas Court of Appeals, Fourth District, San Antonio
WRITING FOR THE COURT	Lori I. Valenzuela; Irene Rios; H. Todd McCray
JURISDICTION	Texas Court of Appeals, Fourth District, San Antonio
DECIDED	May 13, 2026
DOCKET	04-25-00089-CV
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from a final judgment entered after a jury verdict awarding Michelle Teresa Acosta \$3 million in past mental anguish damages and \$2 million in future mental anguish damages on claims for civil assault and intentional infliction of emotional distress. The appellants also challenged dismissal of their counterclaims under Texas Rule of Civil Procedure 91a and the trial court’s permission for Acosta to amend her pleadings after the verdict.
STANDARD OF REVIEW	Legal sufficiency is reviewed by viewing the evidence in the light most favorable to the verdict, crediting evidence supporting the finding if a reasonable factfinder could and disregarding contrary evidence unless a reasonable factfinder could not; more than a scintilla of evidence defeats the challenge. Factual sufficiency is reviewed neutrally by considering the entire record, and the finding must be so against the great weight and preponderance of the evidence as to be clearly wrong and unjust to warrant reversal. Rule 91a rulings are

	reviewed de novo. Pleading amendments are reviewed for abuse of discretion.
PRECEDENTIAL VALUE	Published memorandum opinion
PARTIES	Allan Roy Manka, The Law Offices of Allan R. Manka, P.C. v. Michelle Teresa Acosta

TOPICS

assault

standard of review

motions to dismiss

appellate procedure

PRACTICE AREAS

torts

civil procedure

appellate procedure

damages

evidence

QUESTIONS PRESENTED

1. Whether legally and factually sufficient evidence supported the jury's finding that Manka committed civil assault by intentionally or knowingly causing offensive or provocative physical contact.
2. Whether any error in submitting Acosta's intentional-infliction-of-emotional-distress claim required reversal when Manka did not establish harm from the submission and the assault finding was independently affirmed.
3. Whether legally and factually sufficient evidence supported the jury's awards of \$3 million in past mental anguish damages and \$2 million in future mental anguish damages.
4. Whether the trial court properly granted Acosta's Rule 91a motions dismissing Manka's counterclaims.
5. Whether the trial court abused its discretion by permitting Acosta to amend her pleading after the verdict to conform the pleaded amount of damages to the jury's award.

HOLDINGS

1. The evidence was legally and factually sufficient to support the jury's finding that Manka intentionally or knowingly touched Acosta in a manner he knew or reasonably should have known she would regard as offensive or provocative.
2. Any error in submitting Acosta's intentional-infliction-of-emotional-distress claim did not warrant reversal because Manka failed to show that the submission probably caused an improper judgment or otherwise prevented him from presenting his appellate arguments.
3. The evidence was legally and factually sufficient to support the jury's awards of \$3 million for past mental anguish and \$2 million for future mental anguish.
4. The trial court's dismissal of Manka's counterclaims was affirmed because Manka failed to challenge every independent ground asserted in Acosta's Rule 91a motions.
5. The trial court did not abuse its discretion by allowing Acosta to amend her pleading after the verdict to conform the amount of damages sought to the jury's award.

KEY QUOTATIONS

“Because “[t]he elements of a civil assault mirror those of a criminal assault,” a person can be civilly liable for assault if he intentionally or knowingly caused physical contact with another person when he knew or reasonably should have believed the other person would consider the contact offensive or provocative.” (at 4)

“Compensable mental anguish “implies a relatively high degree of mental pain and distress. It is more than mere disappointment, anger, resentment or embarrassment, although it may include all of these.”” (at 9)

“But after reviewing the evidence in the light most favorable to the judgment, we conclude that the number of days between the assault and the jury’s verdict and the cost of one hour of therapy were appropriate anchors, substantiated by the evidence, that the jurors could rely on to decide what they “would give in a day to not go through this reminder in this situation.”” (at 14)

“Because the trial court’s orders do not state the reasons for the rulings, Manka bore the burden on appeal to defeat each of the grounds Acosta raised in her Rule 91a motions.” (at 15)

FACTUAL BACKGROUND

Manka and Acosta, both attorneys, represented opposing parties at a family-law hearing in June 2019. While they waited in a courthouse lobby, Manka made statements about touching female clients and opposing counsel to make them uncomfortable, touched Acosta's lower back, waist, hair, and shoulder, and, according to Acosta, grabbed and squeezed her buttocks. Acosta reported the incident to law enforcement and later sued for civil assault and intentional infliction of emotional distress. At trial, she presented testimony and treatment records describing panic attacks, anxiety, depression, post-traumatic stress symptoms, sleep problems, and continuing professional and personal effects.

PROCEDURAL HISTORY

Acosta sued Manka in June 2021 for assault by offensive physical contact and intentional infliction of emotional distress. Manka asserted counterclaims for defamation, business disparagement, and tortious interference with contract; the trial court granted Acosta's Rule 91a motions dismissing the counterclaims. After a September 2024 jury trial, the jury found for Acosta on both claims, awarded past and future mental anguish damages, and rejected punitive damages. The trial court entered final judgment, Manka's post-trial motions were overruled by operation of law, and Manka appealed.

DISPOSITION

affirmed

CASES CITED

- In re Marriage of Thrash, 605 S.W.3d 224, 230 (Tex. App.—San Antonio 2020, pet. denied)
- Tex. Outfitters Ltd., LLC v. Nicholson, 572 S.W.3d 647, 653 (Tex. 2019)
- Ojeda v. Wal-Mart Stores, Inc., 956 S.W.2d 704, 708 (Tex. App.—San Antonio 1997, pet. denied)

- Vast Constr., LLC v. CTC Contractors, LLC, 526 S.W.3d 709, 723 (Tex. App.—Houston [14th Dist.] 2017, no pet.)
- Abrams v. Salinas, 467 S.W.3d 606, 614 (Tex. App.—San Antonio 2015, no pet.)
- 4922 Holdings, LLC v. Rivera, 625 S.W.3d 316, 328 (Tex. App.—Houston [14th Dist.] 2021, pet. denied)
- United Parcel Serv., Inc. v. Rankin, 468 S.W.3d 609, 615 (Tex. App.—San Antonio 2015, pet. denied)
- Foye v. Montes, 9 S.W.3d 436, 441 (Tex. App.—Houston [14th Dist.] 1999, pet. denied)
- Loaisiga v. Cerda, 379 S.W.3d 248, 256 (Tex. 2012)
- Sanchez v. Striever, 614 S.W.3d 233, 239 (Tex. App.—Houston [14th Dist.] 2020, no pet.)
- La.-Pac. Corp. v. Andrade, 19 S.W.3d 245, 247 (Tex. 2000)
- City of Keller v. Wilson, 168 S.W.3d 802, 819 (Tex. 2005)
- Fayette v. Reyes, No. 04-18-00317-CV, 2019 WL 3937280, at *3 (Tex. App.—San Antonio Aug. 21, 2019, no pet.) (mem. op.)
- Hockman v. Rogers, No. 12-09-00441-CV, 2010 WL 2784435, at *3 (Tex. App.—Tyler July 14, 2010, no pet.) (mem. op.)
- Moore v. Aqrawi, No. 01-03-00917-CV, 2007 WL 2743494, at *3 (Tex. App.—Houston [1st Dist.] Sept. 20, 2007, no pet.) (mem. op.)
- Schneider v. Quintana Energy Servs., LLC, 691 S.W.3d 738, 753 (Tex. App.—Houston [14th Dist.] 2024, no pet.)
- Horton v. Kan. City S. Ry. Co., 692 S.W.3d 112, 141-42 (Tex. 2024)
- Crown Life Ins. Co. v. Casteel, 22 S.W.3d 378, 389 (Tex. 2000)
- Parkway Co. v. Woodruff, 901 S.W.2d 434, 444 (Tex. 1995)
- Gregory v. Chohan, 670 S.W.3d 546, 554, 557-60, 562-63 (Tex. 2023)
- Elizondo v. Reyna, No. 04-24-00284-CV, 2025 WL 2462764, at *9 (Tex. App.—San Antonio Aug. 27, 2025, no pet.) (mem. op.)
- City of Baytown v. Fernandes, 674 S.W.3d 718, 727 (Tex. App.—Houston [1st Dist.] 2023, no pet.)
- Living Ctrs. of Tex., Inc. v. Penalver, 256 S.W.3d 678, 680-81 (Tex. 2008) (per curiam)
- Reliant Energy Servs., Inc. v. Cotton Valley Compression, L.L.C., 336 S.W.3d 764, 794 (Tex. App.—Houston [1st Dist.] 2011, no pet.)
- Bentley v. Bunton, 94 S.W.3d 561, 606 (Tex. 2002)
- Finley v. P.G., 428 S.W.3d 229, 233-34 (Tex. App.—Houston [1st Dist.] 2014, no pet.)
- PNS Stores, Inc. v. Munguia, 484 S.W.3d 503, 518 (Tex. App.—Houston [14th Dist.] 2016, no pet.)
- Bethel v. Quilling, Selander, Lownds, Winslett & Moser, P.C., 595 S.W.3d 651, 654, 656 (Tex. 2020)
- In re Est. of Savana, 529 S.W.3d 587, 592 (Tex. App.—Houston [14th Dist.] 2017, no pet.)
- In re A.K.P., No. 04-20-00305-CV, 2020 WL 5027398, at *1 (Tex. App.—San Antonio Aug. 26, 2020, no pet.) (per curiam) (mem. op.)
- In re L.H., No. 04-13-00174-CV, 2013 WL 3804585, at *1 (Tex. App.—San Antonio July 17, 2013, no pet.) (per curiam) (mem. op.)
- Sonat Expl. Co. v. Cudd Pressure Control, Inc., 271 S.W.3d 228, 236 (Tex. 2008)

- In re Est. of Marley, 390 S.W.3d 421, 425 (Tex. App.—El Paso 2012, pet. denied)
- Greenhalgh v. Serv. Lloyds Ins. Co., 787 S.W.2d 938, 939-40 (Tex. 1990)
- Am. Med. Int'l, Inc. v. Giurintano, 821 S.W.2d 331, 334-35 (Tex. App.—Houston [14th Dist.] 1991, no writ)
- Murphy v. Arcos, 615 S.W.3d 676, 696-98 (Tex. App.—Dallas 2020, pet. denied)

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