

## SUPREME COURT OF TEXAS

### First Texas Bank v. Chris Carpenter

First Texas Bank v. Carpenter, 491 S.W.3d 729 (Tex. 2016) · No. 15-0172 · Decided June 10, 2016

#### SUMMARY

The Supreme Court of Texas held that, under Texas Civil Practice and Remedies Code Chapter 95, a contractor is someone who works on an improvement to real property and need not have a formal contract with the property owner. The Court nevertheless concluded that Chapter 95 did not apply because the evidence did not establish that Carpenter was performing covered repair, renovation, construction, or modification work when he was injured. The Court affirmed the court of appeals' judgment for different reasons and remanded the case for further proceedings.

#### CASE DETAILS

|                       |                                                                                                                                                                                                                                                                                                                           |
|-----------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Supreme Court of Texas                                                                                                                                                                                                                                                                                                    |
| WRITING FOR THE COURT | Nathan L. Hecht, Chief Justice                                                                                                                                                                                                                                                                                            |
| JURISDICTION          | Texas                                                                                                                                                                                                                                                                                                                     |
| DECIDED               | June 10, 2016                                                                                                                                                                                                                                                                                                             |
| DOCKET                | 15-0172                                                                                                                                                                                                                                                                                                                   |
| DISPOSITION           | affirmed                                                                                                                                                                                                                                                                                                                  |
| PROCEDURAL POSTURE    | First Texas Bank petitioned for review of the court of appeals' reversal of summary judgment rendered for the Bank in Carpenter's personal-injury action. The Supreme Court of Texas affirmed the court of appeals' judgment, but on different grounds, and remanded the case for further proceedings in the trial court. |
| STANDARD OF REVIEW    | Summary judgment is reviewed to determine whether the movant was entitled to judgment as a matter of law; the Supreme Court also reviewed the construction and applicability of Chapter 95 as a question of statutory interpretation.                                                                                     |
| PRECEDENTIAL VALUE    | published precedential opinion                                                                                                                                                                                                                                                                                            |
| PARTIES               | First Texas Bank v. Chris Carpenter                                                                                                                                                                                                                                                                                       |

#### TOPICS

[statutory interpretation](#)[construction law](#)[premises liability](#)[personal injury](#)[real estate](#)

## PRACTICE AREAS

Texas statutory interpretation

construction law

premises liability

personal injury

summary judgment

## QUESTIONS PRESENTED

1. Whether Chapter 95 of the Texas Civil Practice and Remedies Code requires a person working on an improvement to real property to have an actual contract with the property owner in order to qualify as a statutory contractor.
2. Whether Chapter 95 applies when the injured person was investigating roof damage and showing it to an insurance adjuster, but the evidence does not establish that he had been retained to construct, repair, renovate, or modify the roof.
3. Whether the trial court properly granted summary judgment for the property owner under Chapter 95.

## HOLDINGS

1. In the context of Chapter 95, a contractor is someone who works on an improvement to real property; the statute does not require a formal, written, detailed, or otherwise actual contract with the property owner.
2. Chapter 95 applies only when the contractor, subcontractor, or employee is injured while engaged in constructing, repairing, renovating, or modifying an improvement to real property. The evidence did not establish that Carpenter had been retained to perform such work when he was injured.
3. The trial court erred in granting summary judgment for the Bank because the record did not establish that Chapter 95 applied to Carpenter's injury.

## KEY QUOTATIONS

*“As used in Chapter 95, a “contractor” is someone who makes improvements to real property.” (491 S.W.3d at 732)*

*“Its applicability turns on the kind of work being done, not on whether an agreement for the work to be done is written, or formal, or detailed.” (491 S.W.3d at 732)*

*“The record does not establish that the Bank had retained Carpenter to perform work covered by Chapter 95 at the time he was injured.” (491 S.W.3d at 735)*

## FACTUAL BACKGROUND

First Texas Bank asked Carpenter, its longtime roofing contact, to investigate a roof leak. After Carpenter identified hail damage, the Bank asked him to show the damage to an insurance adjuster, while the parties had not finalized whether any repairs would be made, who would perform them, or the compensation terms. Carpenter fell from a ladder stored by the Bank while descending from the roof and suffered crushed vertebrae.

## PROCEDURAL HISTORY

Carpenter sued First Texas Bank after falling from a ladder while investigating roof damage and alleging that the Bank's ladder was defective. The trial court granted summary judgment for the Bank under Chapter 95 of the

Texas Civil Practice and Remedies Code. The court of appeals reversed, concluding that Carpenter was not a statutory contractor because the parties had not formed an actual contract for specific work. The Supreme Court rejected that reasoning but affirmed the appellate judgment because the evidence did not establish that Carpenter was performing work covered by Chapter 95 when injured.

#### DISPOSITION

affirmed

#### REMAND INSTRUCTIONS

The case was remanded to the trial court for further proceedings because whether Chapter 95 applies remained in dispute.

#### CASES CITED

- Thompson v. Tex. Dep't of Licensing & Regulation, 455 S.W.3d 569, 571 (Tex. 2014)
- TGS-NOPEC Geophysical Co. v. Combs, 340 S.W.3d 432, 439 (Tex. 2011)
- Gorman v. Meng, 335 S.W.3d 797, 800-805 (Tex. App.—Dallas 2011, no pet.)

#### INSTRUCTIONS FOR AN AI ASSISTANT

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