INVASION OF PRIVACY

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CAUSES OF ACTION
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CHAPTER 2
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EDUCATION:
Texas Tech University, B.A., summa cum laude, 1981.
University of Texas, J.D., 1984. (Member, National Mock Trial Team)

PROFESSIONAL ASSOCIATIONS:
- State Bar of Texas (Admitted 1984; Grievance Committee 4D, 1989; Liaison with Federal Judiciary Committee, 1990-1993)
- American Bar Association
- Texas Trial Lawyers Association (Associate Director 1989-1992; Director 1992 to present)
- The Association of Trial Lawyers of America
- Houston Trial Lawyers Association (Associate Director, 1989; Director, 1993-1996)
- Travis County Bar Association
- Capital Area Trial Lawyers Association (President 2006)
- University of Texas Law School Alumni Association (Director 1991-1992)
- Delta Theta Phi Legal Fraternity
- Trial Lawyers for Public Justice

PROFESSIONAL RECOGNITION & HONORARY ORGANIZATIONS:
- 1991 Board Certified - Personal Injury Trial Law - Texas Board of Legal Specialization
- Texas Bar Foundation (Life Fellow)
- American Board of Trial Advocates (Associate)
- Trial Lawyers for Public Justice – Finalist-Trial Lawyer of the Year 2002

CHRONOLOGY OF LAW PRACTICE:
2004-Present: Law Offices of Price Ainsworth, P.C.
1996-2003: Spivey & Ainsworth, P.C.
1989-1990: National Asbestos Class Action
1984-1986: Law Clerk to (then) United States District Judge Robert M. Parker

ADMISSIONS TO PRACTICE:
- All State Courts in Texas
- United States Supreme Court
- United States Courts of Appeals, 5th & 11th Circuits
- United States District Courts (Northern, Southern, Western, and Eastern Districts of Texas)

AUTHOR:
PRIMARY ARTICLES:
- A 1986 CONSTITUTIONAL CONVENTION?, (co-authored), 48 Texas B.J. 896, 1985
- RESOLVING THE ASBESTOS PERSONAL INJURY CRISIS, (co-authored), 10 Rev. of Lit. 419, 1991
INVASION OF PRIVACY
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1. **Scope.** I am going to discuss the following three causes of action that arise under Texas law for an invasion of one’s privacy: a) intrusion on seclusion; b) public disclosure of private facts; and c) appropriation of name or likeness. “False light” has not been recognized as cause of action under Texas law.

2. **COA reference.** Invasion of Privacy is covered in Chapter 15 of the *COA*, beginning on page 325.

3. **Three independent tort causes of action may arise from the invasion of one’s privacy:**
   a. **Intrusion on Seclusion, COA, p. 325; Valenzuela v. Aquino, 853 S.W. 2d 512 (Tex. 1993); Restatement (2d) of Torts §652B**
      1. Elements, COA, p. 325
         • intentional intrusion into plaintiff’s solitude, seclusion (not a public place or reduced expectation of privacy), or private affairs (no corporate plaintiff)
         • the intrusion (physical or nonphysical) would be highly offensive to a reasonable person (publication not required)
         • injury
      2. Examples, COA, p. 327
         • a video camera in the plaintiff’s bedroom
         • entering plaintiff’s home without permission
         • spying on the plaintiff
         • searching plaintiff’s personal locker or purse
         • wiretapping
      3. Remedies, COA, p. 328
         • actual damages (including mental anguish without physical injury, and loss of earning capacity)
         • nominal damages
         • exemplary damages (requires clear and convincing evidence of malice)
         • equitable relief (injunction)
      4. Limitations – 2 years, COA, p. 329 (no statute or Tex. S. Ct. case on issue)
   b. **Public Disclosure of Private Facts, COA, p. 331; Star-Telegram v. Doe, 915 S.W.2d 471 (Tex. 1995); Restatement (2d) of Torts §652D**
      1. Elements, COA, p. 331
         • publicized info about plaintiff’s private life (must not include matters already known, matters of public record, or matters in public view)
• publicity would be highly offensive to a reasonable person
• matter is not of legitimate public concern
• injury results from disclosure

2. Examples, COA, p. 332
• info about sexual relations, family disputes, unpleasant illnesses, intimate personal letters

3. Remedies, COA, p. 333
• actual damages
• nominal damages
• exemplary damages (clear and convincing evidence of malice)
• equitable relief

4. Limitations – 2 years, COA, p. 333

5. Other Defenses, COA, p. 334
• immunity
• proportionate responsibility (plaintiff’s fault submitted)
• consent privilege (a privilege that applies to a statement that would otherwise be actionable as defamation applies here as well)

• Defined – publicity that unreasonably places a person in a false position in the public eye
• Texas Case law has not recognized cause of action. Cain v. Hearst Corp., 878 S.W.2d 577, 584 (Tex. 1994).
5. Related Causes of Action

- Trespass, *COA*, p. 819
- Nuisance, *COA*, p. 583
- Intentional Infliction of Emotional Distress, *COA*, p. 315
- Wiretapping, *COA*, p. 925
- Defamation, *COA*, p. 365
- Use of a Deceased’s Name, *COA*, p. 833