



**Recent per curiam decisions from the Texas Supreme Court which are of interest given the prior decisions on interplay of appraisal and prompt pay laws:**

JUAN ALVAREZ v. STATE FARM LLOYDS; from Bexar County; 4th Court of Appeals District (04-17-00251-CV, \_\_\_ SW3d \_\_\_, 01-10-18), [Per Curiam Opinion](#), [View Electronic Briefs](#)

ROBERTO LAZOS v. STATE FARM LLOYDS; from Starr County; 4th Court of Appeals District (04-17-00286-CV, \_\_\_ SW3d \_\_\_, 01-24-18), [Per Curiam Opinion](#), [View Electronic Briefs](#)

At issue in these cases was whether an insurer's payment of an appraisal award bars an insured's claim under the prompt pay laws, Insurance Code, Ch. 542, Subchapter B. The insurer prevailed on summary judgment at the appellate court level. The Texas Supreme Court, relying upon recent decisions regarding application of prompt pay damages after an insurer pays an appraisal award, reversed the lower court's decision, and remanding both cases back to the trial court to consider the insured's prompt pay claims.

As background, according to the court's opinion, State Farm paid the claim and the insured sued asserting that the damage amount paid was too low. State Farm invoked its appraisal clause and the appraisal award was greater than the amount of damages paid by State Farm. State Farm paid the appraisal amount and moved for summary judgment on the insured's claims for damages. The trial court granted the summary judgment and gave a take nothing judgment. The insured appealed and argued he was entitled to 18% penalty interest and other damages under Insurance Code chapter 542. State Farm also prevailed on appeal.

In prior Supreme Court decisions, *Barbara Technologies v. State Farm* and *Ortiz v State Farm*\*, respectively, the Supreme Court held "payment in accordance with an appraisal is neither an acknowledgment of liability nor a determination of liability under the policy for purposes of TPPCA (prompt payment) damages under section 542.060" and "an insurer's payment of an appraisal award does not as a matter of law bar an insured's claims under the Prompt Payment Act."

Citing to those prior decisions, this court determined that the plaintiff was entitled to have his claim under the prompt payment law considered by the lower court. The case was remanded to the trial court.

\*ICT has previously filed amicus briefs in the *Barbara Technologies* and *Ortiz* cases in support of the position that an insurer's payment of an appraisal award bars any additional recovery for statutory damages.