

DIVISIVE MERGERS - TORTS AND THE “TEXAS TWO STEP”

- The Texas Businesses and Organizations Code allows for a divisive merger to split one or more companies into multiple companies (that sounds reasonable)
- As part of a divisive merger, assets and liabilities can be apportioned among resulting entities (Ok – I see maybe where this could be going)
- The new entities are not liable for the obligations of the pre-merger entities, unless they were so allocated in the plan of merger (Uh Oh)
- The allocation of assets and liabilities is deemed to occur with no assignment or transfer having taken place (WTF)
- Discuss: Is bankruptcy an appropriate forum to deal with mass tort issues?