

23rd Annual Conference on State and Federal Appeals

June 13-14, 2013 • Four Seasons Hotel • Austin, TX

Thursday Morning, June 13, 2013

Presiding Officer:

Pamela Stanton Baron, Attorney at Law - Austin, TX

| | |
|----------------------------|---|
| 8:00 am | Registration Opens Includes continental breakfast. |
| 8:30 am | Welcoming Remarks |
| 8:45 am 0.33 hr | What Hath the Legislature Wrought? An overview of selected bills passed by the 83rd Legislature. Jerry D. Bullard, Adams Lynch & Loftin - Grapevine, TX |
| 9:05 am 0.50 hr | Getting the Charge Right and Charge Error Preservation A "real life" jury charge conference with objections and submissions. David Keltner, Kelly Hart & Hallman LLP - Fort Worth, TX |
| 9:35 am 0.50 hr | Where We're From, Where We're Headed—A Senior Justice's Perspective The state's longest-serving member of the judiciary examines the past, present and future of appellate courts and appellate practice. Hon. Nathan L. Hecht, The Supreme Court of Texas - Austin, TX |
| 10:05 am 0.33 hr ethics | Hidden Bombshells on Appeal: What You Must Do, and What You Should Do When Things Don't Go as Planned An exploration of the ethical limits of advocacy and whether it is a good idea ever to tread very close to those limits. Kendall M. Gray, Andrews Kurth LLP - Houston, TX |
| 10:25 am | Break |
| 10:40 am 1.00 hr | What's Appealing About the New Dismissal and Expedited Trial Rules? A discussion of the new dismissal and expedited trial rules, as well as interlocutory appeals. Panelists: Hon. Jane Bland, First Court of Appeals - Houston, TX Panelists: Hon. William J. Boyce, Fourteenth Court of Appeals - Houston, TX Panelists: Hon. Gregory T. Perkes, Thirteenth Court of Appeals - Corpus Christi, TX |

11:40 am

Lunch On Your Own

Thursday Afternoon, June 13, 2013

Presiding Officer:

Lisa Bowlin Hobbs, Kuhn Hobbs PLLC - Austin, TX

1:00 pm
0.50 hr

The Economic Loss Rule

The first chapter of the Restatement Third, Torts: Liability for Economic Harm discusses liability for pure economic losses caused by a defendant's negligence. Dean Farnsworth, Reporter for the Restatement Third, Torts, explains the Restatement's handling of this famously confusing area, in particular, the line of separation between claims sounding in contract and tort.

Ward Farnsworth, Dean, The University of Texas School of Law - Austin, TX

1:30 pm
0.50 hr

Vanishing Documents and Emerging Law: Spoliation in Texas

An outline of the current issues in spoliation and the standards employed by appellate courts in reviewing spoliation decisions.

Hon. Rebecca Simmons, Visiting Justice; former Justice, Fourth Court of Appeals - San Antonio, TX

2:00 pm
0.50 hr ethics

Attorneys' Fees on Appeal

Gain insight on recent cases and developments regarding the recovery of attorneys' fees on appeal.

Phil Durst, Deats, Durst, Owen & Levy, P.L.L.C. - Austin, TX

2:30 pm
0.33 hr

What Next? The Ins and Outs of Wrapping Up an Appeal

Issuance of a final judgment on appeal doesn't mean the appellate lawyer's work is done. Discussion of the process of wrapping up the appeal from procedural, strategic and practical angles.

Kirsten Castañeda, Locke Lord LLP - Dallas, TX

2:50 pm
0.50 hr

Putting the "App" in Appellate Practice

What are the iPad apps that can actually make the day-to-day work of appellate law easier or more enjoyable? Three appellate lawyers discuss and demonstrate.

Panelists:

Don Cruse, Law Office of Don Cruse - Austin, TX

Panelists:

Blake A. Hawthorne, The Supreme Court of Texas - Austin, TX

Panelists:

Richard B. Phillips Jr., Thompson & Knight LLP - Dallas, TX

3:20 pm

Break

| | |
|---------------------------|---|
| 3:35 pm 1.00 hr ethics | <p>Ethics Game Show</p> <p>Remember when \$10,000 was real money for winning Pyramid, and Password was a game show and not how you logged into your iPhone? Watch vintage appellate lawyers compete in a vintage game show format tackling ethical issues for a full hour.</p> <p>Moderator: Daryl L. Moore, Daryl L. Moore, P.C. - Houston, TX</p> <p>Co-Authors: Sharon E. Callaway, Crofts & Callaway, P.C. - San Antonio, TX Jeffrey S. Levinger, Levinger PC - Dallas, TX Scott Rothenberg, Law Offices of Scott Rothenberg - Houston, TX</p> |
| 4:35 pm 0.33 hr ethics | <p>Ethics Scope of Representation and Engagement</p> <p>Discussion of important issues for drafting an appellate engagement agreement, including scope of work and fiduciary duty.</p> <p>Robert M. (Randy) Roach Jr., Roach & Newton - Houston, TX</p> |
| 4:55 pm 0.50 hr | <p>End-of-Day: Procedural Update</p> <p>Coverage of the most recent Texas cases and new rules of procedure affecting civil trial and appellate practices.</p> <p>Professor Elaine Grafton Carlson, South Texas College of Law - Houston, TX</p> <p>Co-Author: Courtney Taylor Carlson, Jackson Walker L.L.P. - Houston, TX</p> |
| 5:25 pm | Adjourn |

Friday Morning, June 14, 2013

Presiding Officer:

Elizabeth G. (Heidi) Bloch, Brown McCarroll L.L.P. - Austin, TX

| | |
|--------------------|---|
| 8:00 am | <p>Conference Room Opens</p> <p>Includes continental breakfast.</p> |
| 8:30 am 0.33 hr | <p>Tricks and Traps of Rule 202 Appeals</p> <p>An exploration of unsettled issues surrounding Texas's unique rule allowing pre-suit investigatory discovery.</p> <p>Jessica B. Pulliam, Baker Botts - Dallas, TX</p> |

| | |
|---------------------|---|
| 8:50 am 0.42 hr | <p>Settlement on Appeal</p> <p>A practical guide to settlement on appeal, including provisions to include in a settlement agreement, what disposition should be requested from the appellate court, when remand is required, and what the appellate courts will or will not do to assist the parties in implementing a settlement.</p> <p><i>This session will be presented at 3:20 p.m.</i></p> <p>Lara H. Hollingsworth, Rusty Hardin & Associates - Houston, TX</p> |
| 9:15 am 0.33 hr | <p>Supersedeas on the Ground</p> <p>A look at the legal and practical aspects of supersedeas and judgment enforcement practice in Texas state and federal courts.</p> <p>W. Alan Wright, Haynes and Boone, LLP - Dallas, TX</p> |
| 9:35 am 0.42 hr | <p>Avoiding and Overcoming Post-Argument Remorse</p> <p>How to give your best oral argument the first time around, and how to recover when something goes wrong.</p> <p>Wade Crosnoe, Thompson Coe Cousins & Irons, LLP - Austin, TX</p> |
| 10:00 am | <p>Break</p> |
| 10:15 am 0.50 hr | <p>Technological Appellate Advocate</p> <p>The new e-filing rules present both challenges and opportunities to appellate practitioners. Learn how to effectively harness technology as an advocacy tool.</p> <p>Douglas W. Alexander, Alexander Dubose & Townsend LLP - Austin, TX</p> |
| 10:45 am 0.50 hr | <p>Texas Supreme Court Update</p> <p>Update on the most recent Supreme Court cases.</p> <p>Hon. Jeffrey S. Boyd, The Supreme Court of Texas - Austin, TX</p> |
| 11:15 am 0.75 hr | <p>Texas Supreme Court Panel</p> <p>An unscripted discussion of the high Court's docket, decisions and outlook.</p> <p>Moderator: David M. Gunn, Beck Redden LLP - Houston, TX</p> <p>Panelists: Hon. Wallace B. Jefferson, The Supreme Court of Texas - Austin, TX Hon. Paul W. Green, The Supreme Court of Texas - Austin, TX Hon. Phil W. Johnson, The Supreme Court of Texas - Austin, TX</p> |

Friday Afternoon, June 14, 2013

Presiding Officer:

Elana S. Einhorn, The University of Texas School of Law - Austin, TX

| | |
|---------------------------|--|
| | SPONSORED LUNCH WITH THE JUDICIARY |
| 12:00 pm | <p>Sponsored Lunch with the Judiciary</p> <p>A unique opportunity to meet and discuss issues with members of the judiciary. Please select "Sponsored Lunch with the Judiciary" on the registration form to attend (\$10.00 additional charge).</p> <p>SPECIAL THANKS TO OUR LUNCH SPONSORS Andrews Kurth LLP Baker Botts Thompson & Knight LLP</p> |
| 12:50 pm | Return to General Session |
| 1:00 pm 0.33 hr | <p>State of the Fifth Circuit</p> <p>An overview of Fifth Circuit operations in the wake of budgeting and case-load challenges during the 2013 fiscal year .</p> <p>Hon. Carl E. Stewart, United States Court of Appeals for the Fifth Circuit - Shreveport, LA</p> |
| 1:20 pm 0.50 hr | <p>Fifth Circuit Update</p> <p>A practitioner-focused discussion of cases from the Fifth Circuit over the past year that affect the appellate practice.</p> <p>Marcy Hogan Greer, Fulbright & Jaworski L.L.P. - Austin, TX</p> |
| 1:50 pm 0.50 hr | <p>U.S. Supreme Court Update</p> <p>A look at the most important decisions (and impending decisions) of the current Term.</p> <p>P. Michael Jung, Strasburger & Price, LLP - Dallas, TX</p> |
| 2:20 pm | Break |
| 2:35 pm 0.42 hr ethics | <p>Case Study: The Intersection of Legal Malpractice and Federal Jurisdiction</p> <p>How the case-within-a-case aspect of a legal malpractice claim implicates federal jurisdiction, <i>res judicata</i> and governance of the attorney-client relationship.</p> <p>Jane M. N. Webre, Scott, Douglass & McConnico, L.L.P. - Austin, TX</p> |
| 3:00 pm 0.33 hr | <p><i>Stern v. Marshall</i> - Art I v. Art III</p> <p>A crash course on bankruptcy court jurisdiction and where <i>Stern v. Marshall</i> fits.</p> <p>Omar J. Alaniz, Baker Botts - Dallas, TX</p> |

3:20 pm
0.42 hr

Federal Interlocutory Appeals and Mandamus

The bases for interlocutory appeals and mandamus in federal court are markedly different from those in state court. Update and trends on this very active area of federal appellate practice.

This session will be presented at 8:50 a.m.

Dana Livingston, Alexander Dubose & Townsend LLP - Austin, TX

3:45 pm

Adjourn