

2006 Conference on State and Federal Appeals

June 1-2, 2006 • Four Seasons Hotel • Austin, TX

Thursday Morning, June 1, 2006

Presiding Officer:

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

8:45 am 0.50 hr	The Role of Judge and Jury What the appellate courts are saying reasonable jurors can and cannot believe. Scott A. Brister, Supreme Court Of Texas - Austin, TX
9:15 am 0.50 hr	Evolving Standards of Evidentiary Review: A Guide to City of Keller v. Wilson The focus of this presentation is the modification of the traditional scope of no-evidence review in preponderance cases, before and after the City of Keller decision, together with a critical analysis and simplification of the review process. William V. Dorsaneo III, SMU School Of Law - Dallas, TX
9:45 am 0.50 hr	The Vanishing Jury Trial The civil jury is under attack as never before, yet it is the very best way to resolve civil disputes. Why then are we trying to skirt the jury system with other forms of dispute resolution and with tort reform? Isn't it time to remember why the Seventh Amendment is a part of the Constitution? Hon. William Royal Furgeson Jr., United States District Judge - San Antonio, TX
10:35 am 1.00 hr	Jury Charge Perils and Dilemmas As a practical matter, does broad-form submission still even exist? How do you submit an error-free charge in the aftermath of Romero, Harris County, and Casteel? A panel of leading experts discusses the practical and substantive difficulties posed by Supreme Court decisions on jury charge issues. Tracy Kee Christopher, 295th District Court - Houston, TX Tim Patton, Attorney at Law - San Antonio, TX Daniel V. Pozza, San Antonio, TX Charles R. Watson Jr., Locke Liddell & Sapp LLP - Austin, TX
11:35 am 0.42 hr	Strategic Findings of Facts and Conclusions of Law When findings are permitted or required, and how to procure them. Tactics regarding findings and conclusions: general v. specific; few v. many; appellate effects of a particular strategy. Russell Hugh McMains, Law Ofc Of Russell H McMains - Corpus Christi, TX

Thursday Afternoon, June 1, 2006

Presiding Officer:

Brent M. Rosenthal, Baron & Budd PC - Dallas, TX

1:30 pm 0.42 hr	<p>Top 10 Preservation Issues: Nuts and Bolts</p> <p>Preservation of error in the trial court—a tale of woe?</p> <p>David E. Keltner, The Keltner Law Firm - Fort Worth, TX</p>
1:55 pm 0.32 hr	<p>For the Record</p> <p>Explore the fine line on what an appellate court can take judicial notice of and what it can't. Can the court look to web sites? Other courts' records? Scientific studies not in the record? An overview of what is and is not fair game.</p> <p>Dana Livingston Cobb, Alexander Dubose Jones & Townsend LLP - Austin, TX Elana S. Einhorn, Law Offices Of Deborah Hankinson PC - Austin, TX William R. (Rick) Thompson II, Law Offices Of Deborah Hankinson - Dallas, TX</p>
2:15 pm 0.82 hr	<p>Short Topics with Courts of Appeals Justices—A User-Friendly Guide to Practicing in Different Courts of Appeals in Texas</p> <p>Four justices from four different courts of appeals discuss what the courts of appeals have in common, what they don't, and why their way is the best.</p> <p>Hon. Jane Nenninger Bland, Justice 1st Court Of Appeals - Houston, TX Thomas W. Gray, Tenth Court Of Appeals - Waco, TX Daryl L. Moore, Moore & Kelly PC - Houston, TX James T. Worthen, 12th Court Of Appeals - Tyler, TX Linda Reyna Yanez, Thirteenth Court Of Appeals - Edinburg, TX</p>
3:25 pm 0.42 hr	<p>Recent Developments in Sovereign Immunity and Government Liability</p> <p>This topic will look at recent appellate case law governing the hot topics of sovereign immunity, government liability, and the special defenses and issues applicable in appeals by or against government entities or officials.</p> <p>Philip Durst, Deats Durst Owen & Levy, P.L.L.C. - Austin, TX</p>
3:50 pm 0.50 hr	<p>Effective Legal Writing: Think Hemingway, Not Faulkner</p> <p>The focus of this session will be on developing an effective writing style for appellate briefs. Topics to be discussed are writing forceful beginnings and endings, referring to parties understandably, preferring familiar and concrete words, striving for linguistic rhythm, varying sentence length and structure, using footnotes to avoid clutter, creating argumentative headings, using bullets for lists, achieving a relaxed and conversational tone, avoiding jargon, and ending overparticularization.</p> <p>Richard Barrett Phillips Jr, Thompson & Knight - Dallas, TX</p>
4:20 pm 0.00 hr 0.50 hr ethics	<p>I'm All Verklemt</p> <p>Coffee talk about conflicts of interest: avoiding them, curing them, and paying through the nose if you don't.</p> <p>Kendall M. Gray, Andrews & Kurth LLP - Houston, TX</p>
4:50 pm 0.50 hr	<p>Technology Tools and Resources for Appellate Advocates</p> <p>The discussion will include an examination of court web sites, electronic filing in the appellate courts, electronic briefs, and research and writing tools.</p> <p>Eric J. Magnuson, Rider Bennett - Minneapolis, MN</p>

Friday Morning, June 2, 2006

Presiding Officer:

Jeffrey S. Levinger, Carrington, Coleman, Sloman & Blumenthal L.L.P. - Dallas, TX

8:30 am 0.42 hr	Jury Trials Are Being Outsourced: What Is an Appellate Lawyer to Do? A how-to guide for appellate practice in arbitration, bankruptcy, and intellectual property matters. Nina Cortell, Haynes & Boone, LLP - Dallas, TX
8:55 am 0.50 hr	Supreme Court of Texas Internal Operating Procedures How petitions for review, mandamus petitions, and other significant filings and submissions are acted on behind the scenes. Important procedures, timelines, and tricks of the trade that you won't find in the appellate rules. Douglas W. Alexander, Alexander Dubose Jones & Townsend - Austin, TX Blake Alexander Hawthorne, The Supreme Court of Texas - Austin, TX Elizabeth V. Rodd, The Supreme Court of Texas - Austin, TX Clarence Andrew Weber, Kelly Hart & Hallman LLP - Austin, TX
9:25 am 0.32 hr	What Issues Are Important to the Jurisprudence of the State? Insight into the "issues presented" in Texas Supreme Court cases. The author conducted a study of cases granted by the Court in recent years and how issues are being presented to the Court, the type of issues being raised, and how they compare to the issues actually resolved by the Court. Included in the written material is an update of the paper, "What is Important to the Jurisprudence of the State?" Kurt Kuhn, Brown McCarroll LLP - Austin, TX
9:45 am 0.50 hr	Texas Supreme Court Update A review of recent decisions and rule changes from the Texas Supreme Court. Paul W. Green, Supreme Court Of Texas - Austin, TX
10:35 am 0.00 hr 0.50 hr ethics	Free Speech for Judges and Fair Appeals for Litigants: Appellate Recusal in a Post-White World For almost a century, states have promulgated codes regulating judicial conduct, restricting political, charitable, and business activities by sitting judges. In recent years, many of these restrictions have been successfully challenged in court, particularly when they restrict political speech by elected judges. What are the implications for the bench and bar as judges begin to act like, and be regarded as, ordinary politicians? Thomas R. Phillips, Baker Botts LLP - Austin, TX
11:05 am 0.82 hr	Supreme Court Panel A panel of Texas Supreme Court justices will answer frequently asked questions about practice before the court. David Michael Gunn, Beck Redden & Secrest - Houston, TX Nathan L. Hecht, Supreme Court Of Texas - Austin, TX Wallace B. Jefferson, The Supreme Court Of Texas - Austin, TX Philip W. Johnson, Supreme Court Of Texas - Austin, TX Harriet O'Neill, Supreme Court Of Texas - Austin, TX

Friday Afternoon, June 2, 2006

Presiding Officer:

Jeffrey S. Levinger, Carrington, Coleman, Sloman & Blumenthal L.L.P. - Dallas, TX

1:25 pm 0.50 hr	US Supreme Court Update It's a new era with a new chief justice. Find out how the first year of the Roberts' Court shapes up. Hon. William J. Boyce, Fourteenth Court of Appeals - Houston, TX
1:55 pm 0.42 hr	State of the 5th Circuit The Fifth Circuit—a newcomer's view. Priscilla R. Owen, Austin, TX
2:20 pm 0.42 hr	5th Circuit Update A summary of recent Fifth Circuit civil decisions in the areas of jurisdiction and trial and appellate procedure. Macey Reasoner Stokes, Baker Botts - Houston, TX
2:45 pm 0.32 hr	5th Circuit Statistical Trends—Civil Cases A statistical analysis of the 5th Circuit decisions and trends in civil cases during 2005. Gwen J. Samora, Vinson & Elkins LLP - Houston, TX
3:25 pm 0.00 hr 0.50 hr ethics	Confidentiality, Attorney/Client Privilege, and the Electronic Age It can be quick and painful. Thomas H. Watkins, Brown McCarroll LLP - Austin, TX
3:55 pm 0.00 hr 0.50 hr ethics	Ethics of Fee Arrangements and Billings When are attorney's fees reasonable under Tex. R. Disc. Conduct 1.04 and the common law? A look at recently decided and pending cases. Scott Rothenberg, Law Offices Of Scott Rothenberg - Bellaire, TX