

19TH ANNUAL
CONFERENCE ON
STATE AND FEDERAL APPEALS



June 4–5, 2009
Four Seasons Hotel ▪ Austin, Texas

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19TH ANNUAL CONFERENCE ON STATE AND FEDERAL APPEALS

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THURSDAY MORNING, JUNE 4, 2009

Presiding Officer:
Pamela Stanton Baron,
Attorney at Law, Austin, TX

8:00 a.m. **Registration Opens**
Includes continental breakfast.

8:30 a.m. **Welcoming Remarks**

8:45 a.m. **.33 hr**

Rules Update

A summary of past, pending and potential amendments to the Texas Rules of Civil Procedure, Texas Rules of Appellate Procedure, Texas Rules of Judicial Administration, State Bar Rules and Rules of Disciplinary Procedure, as well as a brief update regarding the Texas Appeals Management and e-filing system (TAMES) project and related amendments to statutes and rules.

Kennon Peterson, Austin, TX

9:05 a.m. **.50 hr**

Procedure Update

An update of case law affecting Texas civil procedure, with an emphasis on decisions implicating appellate practice.

Elaine A. Carlson, Houston, TX

9:35 a.m. **.50 hr**

Mandamus Update: A Whole New World

How to navigate mandamus practice in the post-*Prudential*, post-*McAllen Medical* universe.

David E. Keltner, Fort Worth, TX

10:05 a.m. **Break**

10:20 a.m. **.50 hr ethics**

Clients Behaving Badly: Appealing Sanctions and Contempt Orders

Clients sometimes make mistakes. When they do, it occasionally results in a trial court order of monetary sanctions, non-monetary sanctions, or even contempt of court. This session provides you the most comprehensive, up-to-date information you need to help your client appeal a trial court award of sanctions or a judgment of contempt.

Scott Rothenberg, Houston, TX

10:50 a.m. **.50 hr ethics**

Lawyers Behaving Badly: What Not to Do

Learning from those “teachable moments” experienced by other lawyers.

Kendall M. Gray, Houston, TX

11:20 a.m. **.67 hr**

Judges and Lawyers Behaving Nicely: Working Together

A candid conversation between appellate justices and practitioners about how to make the appellate process work better. What should attorneys do to make the court’s job easier? What should the appellate courts be doing?

Moderator:

Kurt Kuhn, Austin, TX

Panelists:

Anne M. Johnson, Dallas, TX
Hon. Joseph B. Morris, Dallas, TX
Hon. Rebecca Simmons, San Antonio, TX

THURSDAY AFTERNOON

Presiding Officer:
Brenda L. Clayton,
Kelly, Hart & Hallman LLP, Austin, TX

12:00 p.m. **Pick up Box Lunch**
Included in conference registration fee.

LUNCHEON PRESENTATION

12:15 p.m. **.50 hr**

Historical Origins of American Appellate and Constitutional Law

A visually-exciting PowerPoint presentation about the origins, plural, of American constitutional and appellate law in the seventeenth century in New Spain, New England, New France and New Sweden. Early charters, constitutions and laws are covered, using real lives and trial transcripts as examples.

David A. Furlow, Houston, TX

12:45 p.m. **Break**

1:00 p.m. **.67 hr**

The Rise of the Appellate Litigator and the Future of Appellate Litigation

The extent of, and reasons for, the perceived increase in appellate specialization in the private bar—what the appellate litigator brings to the table, including a discussion of what the future may hold.

Moderator:

David W. Holman, Houston, TX

Panelists:

Charles Cooper, Washington, DC
Thomas G. Hungar, Washington, DC
Marie R. Yeates, Houston, TX

1:40 p.m. **.50 hr**

Iron Chef: Appellate Edition

Learn what the world’s top chefs can teach you about better brief writing and advocacy.

Hon. William J. Boyce, Houston, TX

2:10 p.m. **.50 hr ethics**

Ethics in Court Papers

Is it possible to write unethically? It sure is. This presentation contains some of the most embarrassing, humorous, and instructive cases dealing with poor legal writing. The lawyers in these cases faced bar discipline, court sanctions, and civil liability. Let’s hope you never do.

Wayne Schiess, Austin, TX

2:40 p.m. **Break**

2:55 p.m. **.50 hr**

Recent Developments Regarding Harmful Error: How to Maximize or Minimize It

This presentation examines recent cases and trends governing how the courts look to, find, and define Harmful Error.

Philip Durst, Austin, TX

3:25 p.m. **.33 hr**

That’s Right, You’re Not From Texas: Special Appearances

Overview of recent state-court cases and trends in the area of personal jurisdiction, including procedural aspects of special appearance practice in Texas.

Gregory Joseph Lensing, Dallas, TX

3:45 p.m. .50 hr

Advocacy Insight: What Appellate Practitioners Can Learn From The Blackmun Papers

Justice Harry Blackmun collected literally thousands of cert pool memos. They are now accessible. Explore what Texas lawyers can learn about appellate advocacy and strategy from this rare look inside the black box.

David M. Gunn, Houston, TX
Elana S. Einhorn, Austin, TX

4:15 p.m. Adjourn

FRIDAY MORNING, JUNE 5, 2009

Presiding Officer:
Pamela Stanton Baron,
Attorney at Law, Austin, TX

8:30 a.m. .42 hr

Ninth Inning: Wrapping Up An Appeal

What comes after the court's opinion? A primer on costs, the mandate, and other end-of-appeal mysteries.

Richard B. Phillips Jr., Dallas, TX

8:55 a.m. .50 hr

The Making and Breaking of the PJC's

Two views of the Texas Pattern Jury Charge. One view looks at the guiding philosophy of how PJC's have been formulated historically and how that may be changing. The other view shows why that ought to change, with *Ledesma* as a primer and suggestions about other changes that need to be made.

Sharon E. Callaway, San Antonio, TX
Craig A. Morgan, Austin, TX

9:25 a.m. .50 hr ethics

Fee Agreements: Sandbags Against the Tide

The use of the fee agreements to resolve malpractice and grievance exposure.

Thomas H. Watkins, Austin, TX

9:55 a.m. Break

10:10 a.m. .42 hr

Texas Supreme Court Clerk's Office Update

The Clerk of the Supreme Court of Texas provides an overview of the internal operating procedures of the Supreme Court of Texas. The discussion includes an explanation of the Court's "conveyor belt" system for reviewing petitions for review, as well as an explanation of the process for reviewing original proceedings. The Court's policies for granting motions for extension of time and voting on other motions are also covered. The future of electronic filing at the Supreme Court of Texas and the courts of appeals is discussed.

Blake Alexander Hawthorne, Austin, TX

10:35 a.m. .50 hr

Texas Supreme Court Update

A practical guide to recent cases and a few reflections on trends for the future.

Hon. Scott A. Brister, Austin, TX

11:05 a.m. .75 hr

Texas Supreme Court Panel

Justices of the state's highest court answer questions from a former chief justice and the audience regarding the court's procedures and administrative activities.

Moderator:

Thomas R. Phillips, Austin, TX

Panelists:

Hon. Wallace B. Jefferson, Austin, TX
Hon. Nathan L. Hecht, Austin, TX
Hon. Harriet O'Neill, Austin, TX
Hon. Dale Wainwright, Austin, TX

11:50 a.m. Break

FRIDAY AFTERNOON

Presiding Officer:
Marcy Hogan Greer,
Fulbright & Jaworski L.L.P., Austin, TX

SPONSORED LUNCH WITH THE JUDICIARY

12:05 p.m. Lunch with the Judiciary

A unique opportunity to meet and discuss issues with members of the judiciary. Please select "Sponsored Lunch with the Judiciary" on the registration form if you plan to attend (there is a \$7.00 additional fee).

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1:05 p.m. Break

1:35 p.m. .42 hr

Fifth Circuit Clerk's Office Update/Transition to Electronic Case Filing

The clerk of the court reviews Fifth Circuit changes in docketing systems and provides an introduction to attorney electronic case filing, together with tips on how practitioners can make the change.

Charles Robert Fulbruge III, New Orleans, LA

2:00 p.m. .50 hr

Fifth Circuit Update

A Fifth Circuit judge reviews recent decisions from the court.

Hon. Catharina J.H.D. Haynes, Dallas, TX

2:30 p.m. .50 hr ethics

Ethics of Oral Argument

Oral advocacy presents different ethical challenges from written advocacy. Using real-world examples from the Fifth Circuit, learn which tactics to use, and more importantly, which to avoid.

Hon. Edward C. Prado, San Antonio, TX

3:00 p.m. Break

3:15 p.m. .33 hr

Invisible Ink: What You Didn't Sign

A client who did not sign the contract may still be bound by its jury waiver, forum selection clause, or arbitration clause. This growing area of case law is addressed.

Nina Cortell, Dallas, TX
Co-Author: Jeremy Daniel Kernodle, Dallas, TX

3:35 p.m. .33 hr

Federal Mandamus and Interlocutory Review: A Whole New World?

Did Volkswagen take us to A Whole New World or was it merely Da Da Da (a trip around the block with a stinky chair in the backseat)? Update on federal mandamus, interlocutory review, and emergency motions.

Dana Livingston, Austin, TX

3:55 p.m. .33 hr

Bankruptcy Appeals: Definitely A Whole New World

Last year, a panel of federal judges identified bankruptcy appeals as a key growth area for appellate practitioners. This topic provides a survival kit for navigating a bankruptcy appeal.

Samara L. Kline, Dallas, TX

4:15 p.m. Adjourn

ABOUT THE COVER



The Brutal Opposition of All Systems (I), 27 1/4" x 33 1/4", mixed media collage of old books, acrylic and packaging, is by Philip Durst. For more information, visit www.philipdurst.com or call 512-474-6200.

COMMENTS FROM THE 2008 CONFERENCE

“This is my favorite CLE conference of the year and it is always top-shelf and first-rate. This year was no exception. Excellent conference.

I thought this was overall an excellent program with a good mix of practical and academic topics.

Always a great CLE.

As always, an excellent, diverse set of topics; this session seemed to be particularly “sweet.”

Excellent venue, wonderful collegiality.

“This is always a great program.”

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Attn. CLE—AP09
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June 18-19

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Resort and Spa

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October 15-16

San Antonio, Texas
at the Hyatt Regency Hill Country
Resort and Spa

Page Keeton Civil Litigation

October 29-30

Austin, Texas
at the Four Seasons Hotel

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☐ Early Registration Fee due by May 27, 2009 \$545.00

☐ Registration Fee after May 27, 2009 \$595.00

☐ Sponsored Lunch with the Judiciary \$7.00

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Includes Course Binder, Box Lunch Presentation and Lunch with the Judiciary

☐ Full-Time Judicial Employee Rate \$150.00

CONFERENCE PUBLICATIONS AND MEDIA

Allow 2-4 weeks from the conference date for delivery.

☐ Course Binder Without Conference Registration \$225.00
Note: Conference Registration includes Course Binder.

☐ Audio CD Set \$175.00

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AUSTIN

JUNE 4–5, 2009

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512-685-8100

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(subject to availability)

**Hotel Parking: Valet only,
\$13/day, \$26 overnight;
Convention Self-parking: \$7**
at convention center parking facility
(subject to change)

KEY DATES

May 27, 2009, 5 p.m.
last day for early registration
add \$50 for registrations
received after this time

May 29, 2009, 5 p.m.
last day for full refund

June 1, 2009, 5 p.m.
last day for partial refunds
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June 4, 2009, 8:45 a.m.
conference begins

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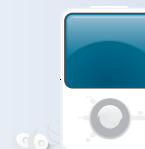
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