

19th Annual Conference on State and Federal Appeals

June 4-5, 2009 • Four Seasons Hotel • Austin, TX

Thursday Morning, June 4, 2009

Presiding Officer:

Pamela Stanton Baron, Austin, TX

8:00 am	Registration Opens Includes continental breakfast.
8:30 am	Welcoming Remarks
8:45 am 0.33 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, Supreme Court of Texas - Austin, TX
9:05 am 0.50 hr	Procedure Update An update of case law affecting Texas civil procedure, with an emphasis on decisions implicating appellate practice. Elaine A. Carlson, South Texas College of Law - Houston, TX
9:35 am 0.50 hr	Mandamus Update: A Whole New World How to navigate mandamus practice in the post- <i>Prudential</i> , post- <i>McAllen Medical</i> universe. Marianne Marsh Auld, Kelly Hart & Hallman - Fort Worth, TX David E. Keltner, Kelly Hart & Hallman LLP - Fort Worth, TX
10:05 am	Break
10:20 am 0.50 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 topic is designed to give 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, Law Offices of Scott Rothenberg - Houston, TX
10:50 am 0.50 hr ethics	Lawyers Behaving Badly: What Not to Do Learning from those "teachable moments" experienced by other lawyers. Kendall M. Gray, Andrews Kurth LLP - Houston, TX

11:20 am
0.67 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, Brown McCarroll, L.L.P. - Austin, TX

Panelists:

Anne M. Johnson, Haynes and Boone, LLP - Dallas, TX

Panelists:

Hon. Joseph B. Morris, 5th Court of Appeals - Dallas, TX

Panelists:

Hon. Rebecca Simmons, Fourth Court of Appeals - San Antonio, TX

Thursday Afternoon, June 4, 2009

Presiding Officer:

Brenda L. Clayton, Kelly, Hart & Hallman LLP - Austin, TX

12:00 pm

Pick up Box Lunch

Included in conference registration.

12:15 pm
0.50 hr

Lunch Presentation: Historical Origins of American Appellate and Constitutional Law

This is 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, Thompson & Knight LLP - Houston, TX

12:45 pm

Break

1:00 pm
0.67 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, The Holman Law Firm, P.C. - Houston, TX

Panelists:

Charles Cooper, Cooper & Kirk, PLLC - Washington, DC

Panelists:

Thomas G. Hungar, Gibson, Dunn & Crutcher LLP - Washington, DC

Panelists:

Marie R. Yeates, Vinson & Elkins L.L.P. - Houston, TX

1:40 pm
0.50 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, 14th Court of Appeals - Houston, TX

2:10 pm 0.50 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 Charles Schiess, University of Texas School of Law - Austin, TX
2:40 pm	Break
2:55 pm 0.50 hr ethics	Fee Agreements: Sandbags Against the Tide The use of the fee agreements to resolve malpractice and grievance exposure. This session has a revised presentation day/time. It was previously scheduled for Friday, June 5 at 9:25am. Thomas H. Watkins, Brown McCarroll, L.L.P. - Austin, TX
3:25 pm 0.33 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, Fifth Court of Appeals - Dallas, TX
3:45 pm 0.50 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. Elana S. Einhorn, University of Texas School of Law - Austin, TX David M. Gunn, Beck Redden & Secrest, LLP - Houston, TX
4:15 pm	Adjourn

Friday Morning, June 5, 2009

Presiding Officer:

Pamela Stanton Baron, Austin, TX

8:30 am 0.42 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, Thompson & Knight LLP - Dallas, TX
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8:55 am 0.50 hr	<p>The Making and Breaking of the PJCs</p> <p>Two views of the Texas Pattern Jury Charge. One view looks at the guiding philosophy of how PJCs have been formulated historically and how that may be changing. The other view shows why that ought to change, with <i>Ledesma</i> as a primer and suggestions about other changes that need to be made.</p> <p>Sharon E. Callaway, Crofts & Callaway, P.C. - San Antonio, TX Craig A. Morgan, Craig A Morgan Attorney at Law - Austin, TX</p>
9:25 am 0.50 hr	<p>Recent Developments Regarding Harmful Error: How to Maximize or Minimize It</p> <p>This presentation examines recent cases and trends governing how the courts look to, find, and define Harmful Error.</p> <p><i>This session has a revised presentation day/time. It was previously scheduled for Thursday, June 4 at 2:55pm.</i></p> <p>Philip Durst, Deats, Durst, Owen & Levy, P.L.L.C. - Austin, TX</p>
9:55 am	Break
10:10 am 0.42 hr	<p>Texas Supreme Court Clerk's Office Update</p> <p>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.</p> <p>Blake A. Hawthorne, Supreme Court of Texas - Austin, TX</p>
10:35 am 0.50 hr	<p>Texas Supreme Court Update</p> <p>A practical guide to recent cases and a few reflections on trends for the future.</p> <p>Hon. Scott A. Brister, Supreme Court of Texas - Austin, TX</p>
11:05 am 0.75 hr	<p>Texas Supreme Court Panel</p> <p>Justices of the state's highest court answers questions from a former chief justice and the audience regarding the court's procedures and administrative activities.</p> <p>Moderator: Thomas R. Phillips, Baker Botts L.L.P. - Austin, TX Panelists: Hon. Nathan L. Hecht, Supreme Court of Texas - Austin, TX Panelists: Hon. Wallace B. Jefferson, Supreme Court of Texas - Austin, TX Panelists: Hon. Harriet O'Neill, Supreme Court of Texas - Austin, TX Panelists: Hon. Dale Wainwright, Supreme Court Of Texas - Austin, TX</p>
11:50 am	Break

Friday Afternoon, June 5, 2009

Presiding Officer:

Marcy Hogan Greer, Fulbright & Jaworski L.L.P. - Austin, TX

12:05 pm	<p>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 if you plan to attend (\$7.00 additional fee).</p> <p>Special Thanks to Our Sponsors:</p> <p>Baker Botts L.L.P.</p> <p>Brown McCarroll</p> <p>Haynes and Boone, LLP</p>
12:05 pm 1.00 hr	<p>Sponsored Lunch with the Judiciary</p>
1:05 pm	<p>Break</p>
1:35 pm 0.42 hr	<p>Fifth Circuit Clerk's Office Update/Transition to Electronic Case Filing</p> <p>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.</p> <p>Charles Robert "Fritz" Fulbruge III, U.S. Court of Appeals, Fifth Circuit - New Orleans, LA</p>
2:00 pm 0.50 hr	<p>Fifth Circuit Update</p> <p>A Fifth Circuit judge reviews recent decisions from the court.</p> <p>Hon. Catharina J.H.D. Haynes, U.S. Court of Appeals, Fifth Circuit - Dallas, TX</p>
2:30 pm 0.50 hr ethics	<p>Ethics of Oral Argument</p> <p>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.</p> <p>Hon. Edward C. Prado, U.S. Court of Appeals, Fifth Circuit - San Antonio, TX</p>
3:00 pm	<p>Break</p>
3:15 pm 0.33 hr	<p>Invisible Ink: What You Didn't Sign</p> <p>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.</p> <p>Nina Cortell, Haynes and Boone, LLP - Dallas, TX Co-Author: Jeremy Daniel Kernodle, Haynes & Boone, LLP - Dallas, TX</p>

3:35 pm 0.33 hr	<p>Federal Mandamus and Interlocutory Review: <i>A Whole New World?</i></p> <p>Did <i>Volkswagen</i> take us to a <i>A Whole New World</i> or was it merely <i>Da Da Da</i> (a trip around the block with a stinky chair in the backseat)? Update on federal mandamus, interlocutory review, and emergency motions.</p> <p>Dana Livingston, Alexander Dubose & Townsend LLP - Austin, TX</p>
3:55 pm 0.33 hr	<p>Bankruptcy Appeals: Definitely A Whole New World</p> <p>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.</p> <p>Samara L. Kline, Baker Botts L.L.P. - Dallas, TX</p>
4:15 pm	<p>Adjourn</p>