

# 25<sup>th</sup> Annual Conference on State and Federal Appeals

## June 4-5, 2015 • Four Seasons Hotel • Austin, TX

### Thursday Morning, June 4, 2015

#### Presiding Officer:

**Pamela Stanton Baron**, Attorney at Law - Austin, TX

7:30 am	<b>Registration Opens</b>  Includes continental breakfast.
8:20 am	<b>Welcoming Remarks</b>
8:30 am 0.42 hr	<b>Looking Back at the 84th Legislature</b>  An overview of bills that passed and those that didn't—but you should know about anyway.  Jerry D. Bullard, Adams Lynch & Loftin - Grapevine, TX
8:55 am 0.42 hr	<b>Statutory Construction</b>  What methods of interpretation are available to courts, which ones do they use, and why? Unlike federal courts, the Texas high courts have limited their toolbox, taking a unique approach to statutory construction that raises this question—do Texas courts embrace methodological stare decisis?  Constance H. Pfeiffer, Beck Redden LLP - Houston, TX
9:20 am 0.42 hr	<b>Governmental Immunity Update</b>  Review recent Texas cases affecting governmental immunity and a look at important unanswered questions.  Chris Coppola, City of Austin Law Department - Austin, TX
9:45 am 0.50 hr	<b>Jury Charge Update</b>  Examine the significant jury charge cases over the past year and the most common recurring problems.  David Keltner, Kelly Hart & Hallman LLP - Fort Worth, TX
10:15 am	<b>Break</b>
10:30 am 0.42 hr	<b>Interlocutory Appeal Update</b>  A look at recent developments in the ever-expanding world of interlocutory appeals, including how the Courts of Appeals are responding to petitions for permission to appeal under CPRC 51.014(d). Also, what happens when the Legislature's right hand doesn't know what its left hand is doing?  Richard B. Phillips Jr., Thompson & Knight LLP - Dallas, TX

10:55 am 0.50 hr ethics	<b>Attorneys Fees Update</b>  A discussion of recent appeals involving minimizing and maximizing fee awards and how to attack them or protect them.  Jeffrey S. Levinger, Levinger PC - Dallas, TX Carl Cecere, Cecere PC - Dallas, TX
11:25 am 0.50 hr ethics	<b>Spoliation and Sanctions Update</b>  A focus on emerging issues governing when clients and their attorneys can be sanctioned by Texas courts. Recent decisions focus on sanctions for groundless pleadings under Texas Rule of Civil Procedure 13 and Chapter 10 of the Texas Civil Practice and Remedies Code, as well as imposition of sanctions for fabricating, destroying, or failing to preserve evidence.  Emily R. Jolly, Enoch Kever PLLC - Austin, TX Melissa Lorber, Enoch Kever PLLC - Austin, TX
11:55 am	<b>Pick Up Lunch</b>  Included in registration.

## Thursday Afternoon, June 4, 2015

### Presiding Officer:

**Hon. Jane Bland**, First Court of Appeals - Houston, TX

### LUNCHEON PRESENTATION

12:15 pm 1.00 hr ethics	<b>Ethics Three-Pack: Legal Malpractice, Client Confidentiality in the Digital Era, and Ethical and Effective Appellate Marketing</b>  It was hard enough maintaining client confidentiality in the era of paper files, landlines and photocopiers. Learn techniques to maintain your client's confidentiality in this new age of the cloud, web, smartphones and tablets, and digital copiers.  Sam Johnson, Scott, Douglass & McConnico, L.L.P. - Austin, TX Gene Major, State Bar of Texas - Austin, TX Scott Rothenberg, Law Offices of Scott Rothenberg - Houston, TX
1:15 pm	<b>Break</b>
1:30 pm 0.58 hr	<b>Texas Supreme Court Update</b>  A look at recent opinions issued by the Court in the current term.  Hon. Jeffrey S. Boyd, The Supreme Court of Texas - Austin, TX David M. Gunn, Beck Redden LLP - Houston, TX

2:05 pm 0.50 hr 0.25 hr ethics	<p><b>Appellate Judicial Survey</b></p> <p>This spring, the Justices of the Supreme Court of Texas and each of the fourteen Courts of Appeals were asked to complete a survey about brief writing, oral argument, amicus briefs, and professionalism, among other topics. Hear and analyze the results of the survey.</p> <p>Scott Rothenberg, Law Offices of Scott Rothenberg - Houston, TX  Kent Rutter, Haynes and Boone, LLP - Houston, TX  Jo Ann Storey, Jo Ann Storey, P.C. - Houston, TX</p>
2:35 pm 0.50 hr	<p><b>Expert Testimony Update</b></p> <p>Examine recent appeals and trends involving the handling and striking of expert witnesses by the appellate courts, including when they can help and when they are vulnerable.</p> <p>Philip Durst, Deats, Durst, Owen &amp; Levy, P.L.L.C. - Austin, TX</p>
3:05 pm	<b>Break</b>
3:15 pm 0.50 hr	<p><b>Don't Skip the Criminal Opinions</b></p> <p>Appellate Justices who started in the criminal courts explain how civil appellate practitioners can gain valuable insights from the criminal side of the docket.</p> <p>Moderator:  Hon. William J. Boyce, Fourteenth Court of Appeals - Houston, TX  Panelists:  Hon. Elsa R. Alcala, Texas Court of Criminal Appeals - Austin, TX  Hon. Marc W. Brown, Fourteenth Court of Appeals - Houston, TX  Hon. Craig T. Stoddart, Fifth Court of Appeals - Dallas, TX</p>
3:45 pm 0.33 hr	<p><b>Discovery Update for Appellate Lawyers</b></p> <p>Update on discovery issues recently resolved or now percolating on appeal, including mandamus.</p> <p>Karen S. Precella, Haynes and Boone, LLP - Fort Worth, TX</p>
4:05 pm 0.67 hr	<p><b>Evidence Challenge</b></p> <p>You make the call. Test your knowledge of evidence by ruling on a series of objections.</p> <p>Steven Goode, The University of Texas School of Law - Austin, TX</p>
4:45 pm 0.50 hr	<p><b>Texas Civil Procedural Update</b></p> <p>A look at 20 of the most significant recent decisions affecting Texas trial and appellate practice.</p> <p>Elaine Grafton Carlson, South Texas College of Law - Houston, TX  Materials By:  Courtney Taylor Carlson, Jackson Walker L.L.P. - Houston, TX</p>
5:15 pm	<b>Adjourn</b>

## Friday Morning, June 5, 2015

**Presiding Officer:**

7:30 am	<b>Conference Room Opens</b>  Includes continental breakfast.
8:30 am 0.33 hr	<b>The Other Side of eFiling</b>  Explore the problems practitioners might encounter when eFiling with appellate courts, including suggestions for addressing these problems.  Elizabeth G. (Heidi) Bloch, Husch Blackwell LLP - Austin, TX
8:50 am 0.33 hr	<b>Damages Error: Remand or Render?</b>  Reversible damages error can be the end of the road or a chance to start over. Find out what you can use from recent appellate opinions to get the disposition you want.  Melissa Michelle Davis, The Supreme Court of Texas - Austin, TX
9:10 am 0.33 hr	<b>Prejudgment Interest and Other Judgment Battlegrounds</b>  An update on developments in prejudgment and post-judgment interest law and other challenges faced by Texas practitioners in forming a judgment.  Anne M. Johnson, Haynes and Boone, LLP - Dallas, TX
9:30 am 0.42 hr	<b>Post-Verdict Pitfalls and Proposed Remedies</b>  How to snatch victory out of the jaws of defeat—or at least how to avoid making it worse—while still in the trial court.  Lynne Liberato, Haynes and Boone, LLP - Houston, TX Co-Author: Nina Cortell, Haynes and Boone, LLP - Dallas, TX
9:55 am 0.33 hr	<b>The Impact of Amicus Briefs</b>  What makes an amicus effective in the Supreme Court of Texas? Insights from a study of the types of amicus briefs that are having an impact on the current Court and why.  Kurt Kuhn, Kuhn Hobbs PLLC - Austin, TX
10:15 am	<b>Break</b>
10:30 am 0.50 hr	<b>Interview with Chief Justice Hecht</b>  The Chief Justice offers perspectives on his more than a quarter of a century on the Texas Supreme Court, as well as tips for practitioners.  Hon. Nathan L. Hecht, The Supreme Court of Texas - Austin, TX Douglas W. Alexander, Alexander Dubose Jefferson & Townsend LLP - Austin, TX

11:00 am 0.75 hr	<p><b>Texas Supreme Court Panel</b></p> <p>An interactive conversation with the Justices about administrative and procedural rule changes, what compels the court to grant a petition, and cases to watch for.</p> <p><b>Please submit your questions in advance to <a href="mailto:ConferenceQA@utcle.org">ConferenceQA@utcle.org</a> or on-site at the conference registration desk.</b></p> <p>Moderator: Hon. Craig T. Enoch, Enoch Kever PLLC - Austin, TX</p> <p>Panelists: Hon. Paul W. Green, The Supreme Court of Texas - Austin, TX Hon. Phil Johnson, The Supreme Court of Texas - Austin, TX Hon. Jeffrey S. Boyd, The Supreme Court of Texas - Austin, TX Hon. Jeff Brown, The Supreme Court of Texas - Austin, TX</p>
11:45 am	<b>Break</b>

## Friday Afternoon, June 5, 2015

### Presiding Officer:

**Hon. Cynthia Olson Bourland**, Third Court of Appeals - Austin, TX

### LUNCHEON WITH THE JUDICIARY

12:05 pm	<p><b>Luncheon with the Judiciary</b></p> <p>A unique opportunity to meet and discuss issues with members of the judiciary. Please select "Luncheon with the Judiciary" on the registration form to attend (\$20 additional charge).</p> <p><b>THANK YOU TO OUR LUNCHEON SPONSORS</b></p> <p><b>Beck Redden LLP</b> <b>Enoch Kever PLLC</b> <b>Thompson &amp; Knight LLP</b></p>
12:55 pm	<b>Return to General Session</b>
1:10 pm 0.50 hr	<p><b>Fifth Circuit Update</b></p> <p>Recent opinions and trends in civil litigation.</p> <p>Hon. Gregg Costa, U.S. Court of Appeals, Fifth Circuit - Houston, TX</p>
1:40 pm 0.42 hr	<p><b><i>En Banc</i> Review in the Fifth Circuit</b></p> <p>Panel discussion about the dynamics of seeking and obtaining <i>en banc</i> review.</p> <p>Hon. Jennifer Walker Elrod, U.S. Court of Appeals, Fifth Circuit - Houston, TX Dana Livingston, Alexander Dubose Jefferson &amp; Townsend LLP - Austin, TX</p>

2:05 pm 0.33 hr	<p><b>The State of Certified Questions in the Fifth Circuit</b></p> <p>Certified or certifiable? Review the what, why, when and how of questions recently certified by the U.S. Court of Appeals for the Fifth Circuit to the Texas Supreme Court. What kinds of questions get certified and why. What procedural and substantive challenges and opportunities are presented by certification.</p> <p>Catherine L. Hanna, Hanna &amp; Plaut LLP - Austin, TX</p>
2:25 pm 0.42 hr	<p><b>Personal Jurisdiction Update</b></p> <p>Learn about the U.S. Supreme Court’s recent opinions on personal jurisdiction—two cases in 2011 and two others in 2014. These opinions significantly impact how litigants and courts analyze personal jurisdiction challenges.</p> <p>Alex Wilson Albright, The University of Texas School of Law and Of Counsel, Alexander Dubose Jefferson &amp; Townsend - Austin, TX</p>
2:50 pm 0.50 hr	<p><b>U.S. Supreme Court Update</b></p> <p>A survey of U.S. Supreme Court rulings—issued and pending—for this term.</p> <p>P. Michael Jung, Strasburger &amp; Price, LLP - Dallas, TX</p>
3:20 pm	<p><b>Adjourn</b></p>