

32<sup>ND</sup> ANNUAL CONFERENCE ON  
**STATE AND FEDERAL APPEALS**



June 16–17, 2022

AT&T Conference Center ■ Austin, Texas

📺 Live Webcast Also Available June 16–17

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Specialization Credit Approved for: Civil Appellate Law, Civil Trial Law, Criminal Appellate Law, Criminal Law, Family Law, and Personal Injury Trial Law

*Times listed are in Central Time*

**THURSDAY MORNING, JUNE 16, 2022**

**Presiding Officer:**

Jane M. N. Webre, Scott Douglass & McConnico LLP, Austin, TX

**7:30 a.m. Registration Opens**

Includes continental breakfast.

**8:20 a.m. Welcoming Remarks**

**8:30 a.m. .50 hr**

**Texas Supreme Court by the Numbers**

A new look at what has been happening with petitions and what that suggests about your client's odds.

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

**9:00 a.m. .75 hr**

**Mandamus: A Look Behind the Curtain**

A discussion of the Texas Supreme Court's decision-making process for mandamus petitions and related motions for emergency temporary relief, including ways practitioners can improve their chances of securing the mandamus relief their clients seek when they need it.

Hon. Jane N. Bland, The Supreme Court of Texas, Austin, TX

David M. Gunn, Beck Redden LLP, Houston, TX

Colleen M. Sullivan, The Supreme Court of Texas, Austin, TX

**9:45 a.m. .50 hr**

**Appellate Review of Prior Restraints on Speech**

Prior restraints—judicial prohibitions against future speech enforced by contempt—are often considered the quintessential form of unconstitutional government censorship. When can a court grant this extraordinary remedy? Hear a discussion of the legal and evidentiary standards applied by Texas and federal courts when considering applications for prior restraints, with a focus on recent efforts in Texas and elsewhere to use the judicial system to block perceived critical or 'dangerous' speech.

Peter D. Kennedy, Graves, Dougherty, Hearon & Moody, Austin, TX

**10:15 a.m. 15-Minute Break**

**10:30 a.m. .50 hr**

**Remote Court Proceedings: Are They Ever Going Away?**

Learn how remote proceedings can continue to be useful, including updates from the Supreme Court's remote proceedings task force.

Hon. Emily Miskel, 470<sup>th</sup> District Court, McKinney, TX

**11:00 a.m. .50 hr**

**How Much is Too Much?: Review of the Excessiveness of Damages**

When less is more, enough is enough, and you can never have too much.

Jeffrey S. Levinger, Levinger PC, Dallas, TX

Connie H. Pfeiffer, Yetter Coleman LLP, Houston, TX

**11:30 a.m. .75 hr**

**Texas Supreme Court Panel**

Hear a candid conversation among the Justices about what is new at the Court, the state of the docket, and ways practitioners can improve their chances of securing discretionary review for their clients.

**Moderator:**

Amy Warr, Alexander Dubose & Jefferson LLP, Austin, TX

**Panelists:**

Hon. Nathan L. Hecht, Supreme Court of Texas, Austin, TX

Hon. Rebeca Huddle, Supreme Court of Texas, Austin, TX

Hon. Evan A. Young, Supreme Court of Texas, Austin, TX

**12:15 p.m. Pick Up Lunch**

Included in registration.

**THURSDAY AFTERNOON**

**Presiding Officer:**

William J. Boyce, Alexander Dubose & Jefferson LLP, Houston, TX

**LUNCHEON PRESENTATION**

**12:45 p.m. .75 hr | .50 hr ethics**

**Get Schooled! Practice and Professional-Identity Lessons from Law School Clinics**

Law schools are expanding clinical offerings in which students represent clients pro bono on a wide range of issues. A discussion on how clinical courses train soon-to-be lawyers in real-world contexts with real-world clients, offering real-life lessons on professional responsibility and professional identity that can benefit seasoned practitioners as well. Explore ideas on how clinics can enhance your appellate practice at no cost by, for example, serving as co-counsel, writing amicus briefs, or organizing moots in cases that fall within clinics' missions.

Lisa R. Eskow, The University of Texas School of Law, Austin, TX

Thomas S. Leatherbury, Vinson & Elkins LLP, Dallas, TX

Lulú Ortiz, The University of Texas School of Law, Austin, TX

Evan M. Rios, The Supreme Court of Texas, Austin, TX

**1:30 p.m. 15-Minute Break**

**1:45 p.m. .50 hr**

**U.S. Supreme Court Update**

This year at the Court has been anything but business as usual. Examine a Court in transition as it winds up a blockbuster term.

Daniel L. Geysler, Haynes and Boone, LLP, Denver, CO

**2:15 p.m. .50 hr**

**Preparing for Oral Argument**

Hear a practical, step-by-step guide to preparing for appellate arguments, drawing on the best practices of some of Texas's top appellate practitioners.

Anne M. Johnson, Tillotson Johnson & Patton, Dallas, TX

2:45 p.m. .50 hr | .25 hr ethics

### Error Resurrection

Appellate lawyers often get called into the game late. This presentation provides tips on preserving arguments for appeal that might—at first blush—seem lost.

Hon. Daryl L. Moore, Ahmad Zavitsanos Anaipakos Alavi Mensing, PC, Houston, TX  
Kelsi Stayart White, Ahmad, Zavitsanos, Anaipakos, Alavi & Mensing P.C., Houston, TX

3:15 p.m. 10-Minute Break

3:25 p.m. .50 hr ethics

### What Every Attorney Needs to Know About Cybersecurity

Review an attorney's ethical duty to safeguard client information, then explore how that duty intersects with cyber threats, including ransomware and data breaches. The speakers provide a list of best practices for securing your electronic devices at home and while traveling.

Jennifer S. Freel, Jackson Walker LLP, Austin, TX  
David Springer, Dropbox, Inc., Austin, TX

3:55 p.m. .75 hr ethics

### Ethics "Game Show"

Watch guest "celebrities" match wits in a fast-paced game of "Wait Wait ... Don't Sue Me!"

**Moderator:**  
Elizabeth G. (Heidi) Bloch, Greenberg Traurig, LLP, Austin, TX

**Panelists:**  
Mia Lorick, Locke Lord LLP, Houston, TX  
Laurie Ratliff, Laurie Ratliff LLC, Austin, TX  
Jane M. N. Webre, Scott Douglass & McConnico LLP, Austin, TX

4:40 p.m. Adjourn

### NETWORKING RECEPTION

4:40 p.m. – 5:40 p.m.

Join us for drinks and hors d'oeuvres with program faculty and attendees.

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## FRIDAY MORNING, JUNE 17, 2022

### Presiding Officer:

Dana Livingston, Cokinos | Young, Austin, TX

7:30 a.m. Conference Room Opens

Includes continental breakfast.

8:25 a.m. Morning Announcements

8:30 a.m. .50 hr

### Statutory Stays, Rule 29.3 Orders, and Other Short-Term Fixes

When certain interlocutory orders are appealed, trial courts may be powerless to enforce injunctive relief and prevent mischief; but appellate courts can come to the rescue. Explore how practitioners can obtain favorable temporary orders from appellate courts during interlocutory appeals.

David J. Campbell, O'Hanlon, Demerath & Castillo, PC, Austin, TX

9:00 a.m. .50 hr | .25 hr ethics

### Remedy: Remand, Render, or Retreat?

A win is only as good as the remedy. Explore best practices, limits on requesting and affording relief, and the law of remedy from the perspective of both practitioners and courts.

Hon. Sarah Beth Landau, First Court of Appeals of Texas, Houston, TX  
Amanda G. Taylor, Butler Snow LLP, Austin, TX

9:30 a.m. .50 hr ethics

### Emergency Toolkit for Grievances and Sanctions Orders

No lawyer expects to be the recipient of a grievance or an order to pay sanctions. Consider this program as your emergency toolkit to help you not only survive but thrive while handling these situations both efficiently and effectively.

Scott Rothenberg, Law Office of Scott Rothenberg, Bellaire, TX

10:00 a.m. 15-Minute Break

10:15 a.m. .50 hr ethics

### What Landry's Means for Press Statements

Last year, the Texas Supreme Court held that an attorney's statements to the press are not immune from defamation claims. Now, what's an attorney to say, and what legal protections remain?

Marc Fuller, Jackson Walker LLP, Dallas, TX

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E

This course has been approved for Minimum Continuing Legal Education credit by the State Bar of Texas Committee on MCLE in the amount of 12.25 hours, of which 3.25 credit hours will apply to legal ethics/professional responsibility credit. The University of Texas School of Law is a State Bar of California approved MCLE provider (#1944), and an Oklahoma Bar Association MCLE presumptively-approved provider (#169).

10:45 a.m. .50 hr

### Permissive Appeals in the Wake of Sabre Travel

In 2019, the Texas Supreme Court strongly encouraged courts of appeals to exercise their discretion to accept certified permissive interlocutory appeals when the statutory requirements have been met. How has this guidance affected courts' approaches to petitions for permission to appeal?

Richard B. Phillips Jr., Holland & Knight LLP, Dallas, TX

11:15 a.m. .75 hr

### Texas Supreme Court Update

Explore recent opinions issued by the Court in the current term.

Hon. Jeff Boyd, Supreme Court of Texas, Austin, TX  
Kurt Kuhn, Kuhn Hobbs PLLC, Austin, TX

12:00 p.m. 30-Minute Break

## FRIDAY AFTERNOON

### Presiding Officer:

Leslie Sara Hyman, Pulman, Cappuccio & Pullen, LLP, San Antonio, TX

### OPTIONAL LUNCHEON WITH THE JUDICIARY

12:30 p.m.

Take advantage of this unique opportunity to meet and discuss issues with members of the judiciary. *Please select "Luncheon with the Judiciary" on the registration form to attend (\$50 additional charge).*

1:15 p.m. Return to General Session

1:30 p.m. .50 hr

### Arbitration Update

Overview of recent state and federal appellate court decisions on hot topic issues like arbitrability, mandatory arbitration clauses, grounds for vacatur, and federal question jurisdiction under the FAA.

Marla Diane Broaddus, Enoch Keever PLLC, Austin, TX  
Michael S. Truesdale, Enoch Keever PLLC, Austin, TX

2:00 p.m. .50 hr

### U.S. Fifth Circuit Update

This presentation covers the most interesting and important cases from the U.S. Court of Appeals for the Fifth Circuit in the past year.

Raffi Melkonian, Wright Close & Barger, LLP, Houston, TX

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2:30 p.m. .50 hr

**Doctrine in Crisis: Stare Decisis**

No clear framework exists for determining when the Supreme Court should overturn a case it wrongly decided or when a Fifth Circuit panel can ignore an earlier panel decision. This muddle not only creates challenges for attorneys arguing a prior decision is not controlling, but also poses problems for the rule of law. Explore recent decisions grappling with stare decisis principles and discuss the ethical and practical considerations at play for appellate advocates.

Jessica Asbridge, Baylor Law School, Waco, TX

3:00 p.m. .50 hr

**What does the SCOTUS Shadow Docket Mean for Appellate Practitioners (and the country)?**

Over the past year, we've seen increased attention to the Supreme Court's "shadow docket" not only from practitioners, scholars, and the media, but from the Justices themselves—including growing accusations from a minority of the Justices that the majority is abusing the Court's procedural orders to effect substantive changes in the law, and growing complaints from the majority about what Justice Kavanaugh called the "worn-out rhetoric" concerning the shadow docket. This session will ask what practitioners ought to make of these developments—and what they mean not only for appellate litigation in state and federal courts, but for the legal system writ large?

Stephen Vladeck, The University of Texas School of Law, Austin, TX

3:30 p.m. Adjourn



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### Mail:

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School of Law  
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PO Box 7759  
Austin, TX 78713-7759

### Fax:

512.475.6876

Questions? 512.475.6700

If you have dietary requirements or would like to request accommodations under the ADA, please contact Customer Service at 512.475.6700 or service@utcle.org at least 10 days prior to the conference.

## REGISTRATION BENEFITS

**Comprehensive Course Materials:** Access course materials in "Your Briefcase" approximately 48 hours before the live event, and enjoy unlimited access to the final, complete course materials – downloadable PDFs of papers and slides.

**Accredited eConference:** Complimentary access to the eConference – with papers, slides, and video – accredited for one year in both TX and CA are available in "Your Briefcase" 4–6 weeks after the live webcast.

**TX MCLE Credit Reporting:** UT Law CLE can report credit on your behalf directly to the State Bar of Texas. Track the Texas MCLE credit reported on your behalf at "Your Account" after you've logged in at www.utcle.org.

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**Forget Your Password or Need it Reset?** Just select "Forgot Password" under "Sign In or Join" at www.utcle.org.

**Still Need Assistance?** Contact customer service at 512.475.6700 or service@utcle.org during business hours.

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AP22

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### EVENT REGISTRATION

*Includes Electronic Course Binder Download (PDF) in "Your Briefcase." Special group registration rates available. Call 512.475.6700.*

- Live, In-Person Event Registration . . . . . \$595 | \$645 after June 8  
 Live Webcast Registration . . . . . \$595 | \$645 after June 8

#### Optional Friday Luncheon

- Optional Friday Luncheon with the Judiciary – Available Through June 8. . . . . \$50

#### Printed and Shipped Binder with Registration (Shipping Included) – Available for order through Friday, June 17, 2022

*Please note that the printed binder will arrive 2–3 weeks after the scheduled webcast. Delivery to P.O. boxes is not permitted. Binders will not be distributed on-site.*

- Printed and Shipped Course Binder . . . . . \$70.36 (\$65\*)

#### Webcast Add-on

*Register for the in-person conference and add on the webcast format for attendance flexibility.*

- Webcast Add-on . . . . . \$75

TOTAL EVENT REGISTRATION \$ \_\_\_\_\_

**FIRST AND SECOND YEAR ATTORNEYS MAY ATTEND FOR JUST \$150! CALL 512.475.6700 TO REGISTER.**

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#### Post-Course Binder – For Research and Self-Study

*Comprehensive binder with papers and slides, available for delivery 4–6 weeks after live event.*

- Electronic Post-Course Download (PDF) . . . . . \$265.21 (\$245\*)  
 Printed Post-Course Binder . . . . . \$319.34 (\$295\*)

TOTAL POST-CONFERENCE PRODUCTS \$ \_\_\_\_\_

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- Check (make check payable to The University of Texas at Austin)  
 VISA  MasterCard  American Express  P.O. (include a copy of the purchase order upon submission)

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Authorized Signature \_\_\_\_\_

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See what we're doing differently this year to address the safety concerns of our staff and attendees at in-person events.



AP22

**AUSTIN**

June 16–17, 2022

**CONFERENCE LOCATION**



**AT&T Conference Center**  
 The University of Texas at Austin  
 1900 University Avenue  
 Austin, TX 78705  
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**Special Room Rate: \$189**  
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 reference "Appellate Law Conference 2022"  
 (subject to availability)

**Parking:**

Please visit [www.utcle.org/conferences/AP22](http://www.utcle.org/conferences/AP22)  
 for daily and overnight rates

**KEY DATES**

**June 8, 2022**

*Last day for early registration rates*

**June 10, 2022**

*Last day for full refund cancellation*

**June 13, 2022**

*Last day for partial refund cancellation*  
 \$50 processing fee applied

**June 16, 2022 8:20 a.m., CT**

*Conference begins*

**June 17, 2022**

*Last day to order a printed and shipped course binder  
 with in-person or webcast conference registration.*

**REASONS TO ATTEND**

UT Law CLE's **32<sup>nd</sup> Annual Conference on State and Federal Appeals** – designed for advanced-level civil appellate practitioners – has earned a reputation as the premier program on appellate practice and procedure in Texas and is a must-attend event for Texas civil appellate practitioners. 2022 highlights include:

- Candid discussion among Texas Supreme Court Justices, including **Chief Justice Nathan L. Hecht**, about what's new at the Court, the state of the docket, and tips for practitioners.
- Review of recent opinions on the most interesting and important cases from the Texas Supreme Court, U.S. Supreme Court, and U.S. Fifth Circuit..
- Insight and further analysis in *What does the SCOTUS Shadow Docket Mean for Appellate Practitioners (and the country)?* from **Texas Law Professor Stephen Vladeck**.
- Learn how clinics can enhance and serve an appellate practice in *Get Schooled! Practice and Professional-Identity Lessons from Law School Clinics*.
- 3.25 hours of ethics, including presentations on *What Every Attorney Needs to Know About Cybersecurity*, the always popular *Ethics Game Show*, *Emergency Toolkit for Grievances and Sanctions Orders*, and *What Landry's Means for Press Statements*.

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We are here to support our community while we navigate the coronavirus pandemic together. Information and updates regarding our in-person conferences and live webcasts will be posted at [www.utcle.org](http://www.utcle.org).

In addition, we continue to offer multiple educational opportunities online—both live and on-demand—by bringing practitioners together virtually. We are fortunate to serve so many of you who strive for excellence in the practice of law.

