

2009 Conference on Criminal Appeals

April 29 - May 1, 2009 • Radisson Hotel and Suites on Town Lake • Austin, TX

Wednesday Afternoon, Apr. 29, 2009

12:30 pm	Registration Opens
1:20 pm	Welcoming Remarks
1:30 pm 0.75 hr	Court of Criminal Appeals Update A look at significant decisions issued by the Court of Criminal Appeals between May 2007 and April of 2009. David C. Newell, Harris County District Attorney's Office - Houston, TX
2:15 pm 1.00 hr	Process, Practice and Decision-Making in the Intermediate Courts Practical insights into the operations of the intermediate courts in criminal cases throughout the state. Moderator: Hon. Catherine M. Stone, 4th Court of Appeals - San Antonio, TX Panelists: Hon. Molly M. Francis, 5th Court of Appeals - Dallas, TX Panelists: Hon. J. Woodfin "Woodie" Jones, Third Court of Appeals - Austin, TX Panelists: Hon. Patrick A. Pirtle, Seventh Court of Appeals - Amarillo, TX
3:15 pm	Break
3:30 pm 0.75 hr ethics	Judicial Ethics: Courtesy and Respect Between Bench and Bar? As a result of this segment you will be able to: trace the history of judicial conduct codes; define ethics; list causes of judicial misconduct; and explore ways to respond to judicial abuse. Hon. Michael Keasler, Court of Criminal Appeals - Austin, TX
4:15 pm 0.75 hr	Writing Effective Briefs Advice primarily from the consumers of briefs, appellate judges, on what to emphasize and leave out of appellate briefs, as well as tips on style and achieving the effect you want. Included: writing petitions for discretionary review that have a chance to be granted. Jay Robert Brandon, Law Office of Jay Brandon - San Antonio, TX
5:00 pm 0.50 hr	New Appellate Rules A review of recent appellate rule changes. Hon. Paul Womack, Court of Criminal Appeals - Austin, TX

5:30 pm	Adjourn
---------	----------------

Thursday Morning, Apr. 30, 2009

Presiding Officer:

Hon. Cheryl Johnson, Court of Criminal Appeals - Austin, TX

8:30 am	Conference Room Opens
9:00 am 0.75 hr	Process of Getting to Appellate Getting into the appellate process and staying there. How to avoid getting thrown out for late filings, incomplete pleadings, etc. for both prosecutors and defense counsel.
9:45 am 1.00 hr ethics	OMG — Did I Leave That in the Brief? Ethical issues for appellate counsel and their supervisors, including relationship with the court and counsel. Richard Alan Anderson, Federal Public Defender Northern Distri - Dallas, TX Edward "Chip" L. Wilkinson, Tarrant County District Attorney's Office - Fort Worth, TX
10:45 am	Break
11:00 am 0.75 hr	Eyewitness ID: Present Methods and Suggested Changes A look at the issues related to eyewitness identification; an overview of methods currently used and how they could be improved. Hon. Barbara P. Hervey, Court of Criminal Appeals - Austin, TX
11:45 am 0.50 hr	Continuing Crawford Conundrums Update on the current scope of Crawford and the right to in-court confrontation as well as the current exceptions to that right. Ending with a few crystal ball predictions for the future. Hon. Cathy Cochran, Court of Criminal Appeals - Austin, TX

Thursday Afternoon, Apr. 30, 2009

Presiding Officer:

Hon. Cheryl Johnson, Court of Criminal Appeals - Austin, TX

	Luncheon Presentation
12:15 pm	Pick up Box Lunch

12:30 pm 1.00 hr	<p>Preservation of Error</p> <p>A review of recent appellate case law to analyze preservation of error claims for appellate review.</p> <p>Richard E. Langlois, San Antonio, TX</p>
1:30 pm	<p>Break</p>
1:45 pm 3.75 hrs	<p>Anatomy of a Texas Writ</p> <p>Post-conviction challenges from investigation and drafting to litigating in Texas trial and appellate Courts. Panelists explore the realities of Texas writ practice and recommend best practices.</p> <p><i>This session includes a 15 minute break for attendees.</i></p> <p>Moderator: Catherine G. Burnett, South Texas College of Law - Houston, TX</p> <p>Panelists: Hon. Cathy Cochran, Court of Criminal Appeals - Austin, TX</p> <p>Panelists: Robert A. Morrow III, The Woodlands, TX</p>
5:45 pm	<p>Adjourn</p> <p>NOTE: time based on 4 hours of Writs presentations</p>

Friday Morning, May 1, 2009

8:30 am 0.75 hr	<p>Oral Arguments: A Toolbox of Suggestions</p> <p>"May it please the Court" ...and now what? How do you capture the appellate court's undivided attention at the very beginning and hold it? How do you control the direction of the presentation and focus the court's collective genes on what can make or break the case? Is it a matter of persuade or perish?</p> <p>Hon. Kerry P. FitzGerald, Fifth Court of Appeals - Dallas, TX</p>
9:15 am 1.00 hr	<p>DNA Testing: Types, Issues and What's New</p> <p>An overview of the types of DNA testing available, case examples demonstrating the advantages and drawbacks of each kind of testing, emerging technologies, and issues related to retesting of samples subjected to early forms of DNA testing.</p> <p>Marjorie I Bachman, Law Office of E.G. Morris - Austin, TX</p>
10:15 am 0.75 hr	<p>Supreme Court Update</p> <p>A review of Supreme Court cases and their impact on criminal law and procedures.</p> <p>Gary Alan Udashen, Sorrels, Udashen & Anton - Dallas, TX</p>

11:00 am
1.00 hr

Current Developments in the Law of Expert Evidence: *Daubert* and Beyond

Explore current trends and issues in the law of expert evidence. A brief review of the basic standards associated with the *Daubert* test, both in how it was described in the trilogy of cases of *Daubert*, *Joiner*, and *Kumho Tire*, as well as its operation in Texas courts. Particular focus on how the *Daubert* test has been applied in criminal cases and recent controversies regarding the admissibility of certain of the forensic identification sciences. Other issues discussed: the applicability of *Daubert* to the so-called "soft social sciences," the use of court appointed experts and technical advisers, and what standard of appellate review should apply to expert evidence admissibility determinations.

David L. Faigman, University of California Hastings College of the Law - San Francisco, CA

12:00 pm

Adjourn