

2004 Page Keeton Civil Litigation Conference
October 28-29, 2004 • Four Seasons Hotel • Austin, TX

Thursday Morning, Oct. 28, 2004

Presiding Officer:

Brent M. Rosenthal, Dallas, TX

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| 9:00 am 0.50 hr | HB 4 - One Year Later This session will discuss the practical effects of HB 4, including the requirements of pleading and proving product liability cases, and rulings that have addressed the legislative changes to Texas law. Mikal C. Watts, Watts Law Firm - Corpus Christi, TX |
| 9:30 am 0.50 hr | Fiduciary Litigation A general overview of fiduciary litigation, explaining generally what a fiduciary duty is and how it changes with specific fiduciaries. Stephen E. McConnico, Scott Douglass & McConnico - Austin, TX |
| 10:00 am 0.50 hr | Personal Injury and Products Liability Update A review of Texas case developments in personal injury and products liability during the last year. Michael R. Klatt, Clark, Thomas & Winters - Austin, TX William C. Powers Jr, University of Texas at Austin - Campus Mail, G3400 |
| 10:45 am 0.50 hr | Commercial Torts A review and update of fiduciary duty, trade secrets, covenants not to compete, tortious interference, fraud/negligent misrepresentation, vicarious liability, and other current issues. Tommy Jacks, Jacks Law Firm - Austin, TX |
| 11:15 am 0.32 hr | Pitching the Gen-X Jury They want their MTV. A mystified Boomer explores strategies for the care and feeding of Gen-X jurors, weaned on the sound bytes, video games and just-in-time learning, and the Millennials behind them now old enough to serve. Craig D. Ball, Austin, TX |
| 11:35 am 0.50 hr | Supreme Court Update A review of Texas Supreme Court opinions handed down during the past year, with emphasis on cases involving product liability and personal injury. Scott A. Brister, Supreme Court Of Texas - Austin, TX |

Thursday Afternoon, Oct. 28, 2004

Presiding Officer:

Leslie A. Benitez, Clark Thomas & Winters PC - Austin, TX

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| 1:30 pm 0.50 hr | Texas Procedure Update An update on appellate decisions and rule changes concerning Texas Civil Procedure over the last year. Alexandra W. Albright, Univerisity Of Texas Law School - Austin, TX |
| 2:00 pm 0.50 hr | Electronic Discovery The session will discuss anticipating and meeting electronic discovery challenges, avoiding electronic discovery pitfalls, and using computer forensics to find smoking gun evidence and gain tactical advantage. Craig D. Ball, Austin, TX |
| 2:30 pm 0.25 hr | Formation of the Judgment and Calculation of Interest after HB 4 2003 legislative enactments have resulted in substantial changes to the recovery of pre-judgment and post-judgment interest, including the rate of interest and the damages upon which interest is recoverable. Elaine A. Grafton Carlson, South Texas College Of Law - Houston, TX |
| 2:45 pm 0.25 hr | The Duty to Defend, the Duty to Settle, and Measuring the Insurer's Liability for Breach This session will question and answer what triggers a liability insurer's duties to defend and settle. What is the hidden flaw in most reservation of rights letters? What must an effective Stowers demand contain and what is the insurer liable for if it breaches its duty to defend or settle? Philip K. Maxwell, Law Offices Of Philip K. Maxwell - Austin, TX |
| 3:00 pm 0.25 hr | Class Actions in Texas The sea change in Texas class actions which began with Bernal has now culminated with Compaq Computer and amended Rule 42. Fred Misko Jr., Attorney at Law - Dallas, TX |
| 3:30 pm 0.50 hr | Jury Charge Practice An update on broad-form jury charges after Crown Life v. Casteel, with a discussion of lessons learned from history and federal courts. Richard P. Hogan Jr., Pillsbury Winthrop Shaw Pittman LLP - Houston, TX Russell Stanley Post, Beck Redden & Secrest - Houston, TX |
| 4:00 pm 0.50 hr | Discovery Issues under the Patriot Act An analysis of the Patriot Act and its implications: balancing privacy versus "need to know"; dealing with leaks and developing information; and civil lessons in what to request in discovery. Barbara Radnofsky, Radnofsky US Senate - Houston, TX |

4:30 pm
0.75 hr

Transitioning Your Litigation Practice

Personal injury and plaintiff lawyers are facing new challenges as state legislative initiatives and changes in jury attitudes make practice more difficult. Three leading litigators explain how they have adapted their practices and developed expertise in such areas as representing governmental entities for environmental claims; handling Ad Valorem tax cases on a contingency basis; and patent litigation.

Michael T. Gallagher, The Gallagher Law Firm - Houston, TX
Edward L. Hohn, Nix Patterson & Roach - Daingerfield, TX
Fred Misko Jr., Attorney at Law - Dallas, TX
Scott Summy, Baron & Budd, PC - Dallas, TX

Friday Morning, Oct. 29, 2004

Presiding Officer:

Fred Misko Jr., Attorney at Law - Dallas, TX

8:30 am
0.50 hr

Property Damage Litigation

The “other product liability.” Personal injury’s forgotten younger sibling.

William J. Chriss, Law Offices Of William J. Chriss, P.C. - Corpus Christi, TX

9:00 am
0.25 hr

Removal, Remand and the War between the Courts

An overview of strategic and practical considerations in removing state cases and in seeking remands by federal courts. What case law and arguments are the strongest? Why are defendants removing cases? When are the removals successful and when do they fail?

James Holmes, The Schmidt Firm - Dallas, TX

9:15 am
0.25 hr

MDL Comes to Texas

One of the less-heralded provisions of HB 4 was the creation of a new statewide multidistrict litigation procedure. Texas lawyers have discovered the MDL, and a new day has dawned for the litigation affected.

Stephen G. Tipps, Baker Botts - Houston, TX

9:30 am
0.32 hr

Roadblocks to Successful Mediation

Uncover pitfalls and roadblocks that commonly prevent successful mediation.

Mark W. Gilbert, Lyon Gorski Baskett Et Al - Dallas, TX

9:50 am
0.25 hr

Medical Malpractice

Notwithstanding the very significant changes brought about by HB 4 in 2003, victims of malpractice in Texas can still achieve significant redress. The challenge for the practitioner is to find new ways of presenting the damages.

Les Weisbrod, Morgan & Weisbrod - Dallas, TX

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| 10:05 am 0.25 hr | Advertising within the Rules This session will cover highlights from the Disciplinary Rules for lawyers who promote the professional services or qualifications of any lawyer or firm. Lynette K. Fons, Beirne Maynard & Parsons - Houston, TX |
| 10:35 am 1.00 hr | Libel, Slander, and Commercial Disparagement Issues facing public figure and private plaintiffs, and media and non-media defendants. Charles L. Babcock IV, Jackson Walker, L.L.P. - Dallas, TX |
| 10:50 am 0.25 hr | How to Succeed in Arbitration Arbitration is increasingly common, particularly in international transactions. How and when to structure and exploit this flexible tool for best results. William H. Knull III, Mayer Brown Rowe & Maw LLP - Houston, TX |
| 11:05 am 0.50 hr | Evidence Update An update of recent developments under the Texas and Federal Rules of Evidence. Steven Goode, University Of Texas Law School - Campus Mail, D1800 |
| 11:35 am 0.25 hr | HIPAA-Discovery Issues Discovery of health care information in light of HIPAA. What's protected and how do I get it? Terry L. Jacobson, Corsicana, TX |
| 11:50 am 0.00 hr 0.25 hr ethics | Referral Fees On June 28, 2004, the State Bar of Texas petitioned the Supreme Court to call a referendum to consider proposed changes to Rule 1.04, Division of Fees, and to Part VII, Information about Legal Services, of the Texas Disciplinary Rules of Professional Conduct. These proposed changes, as well as the Supreme Court's proposed Rule 8a, Referral Fees, will be discussed. Richard C. Hile, Dies & Hile, LLP - Austin, TX |

Friday Afternoon, Oct. 29, 2004

Presiding Officer:

Fred Misko Jr., Attorney at Law - Dallas, TX

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| 12:05 pm 0.25 hr | Pharmaceutical Litigation Issues A review of HB 4 provisions that affect substantive pharmaceutical litigation issues. Michael R. Klatt, Clark, Thomas & Winters - Austin, TX |
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| 1:30 pm 0.50 hr | <p>Royalty Litigation in 2004 - An Update and a Look Ahead</p> <p>A discussion of common current royalty litigation problems, current law, and suggestions on how these issues may be resolved in the future.</p> <p>John Beckworth, Watt, Beckworth, Thompson & Heaneman - Houston, TX Donato D. Ramos, Law Office Of Donato Ramos - Laredo, TX Dick Watt, Watt Beckworth Thompson & Henneman, L.L. - Houston, TX</p> |
| 2:00 pm 0.25 hr | <p>Toxic Torts-Land Contamination</p> <p>Current developments in toxic tort litigation.</p> <p>James L. "Larry" Wright, Watts Law Firm - Austin, TX</p> |
| 2:15 pm 0.25 hr | <p>ERISA</p> <p>A discussion of recent Supreme Court developments and how they impact your trial practice.</p> <p>Yvonne K. Puig, Fulbright & Jaworski L.L.P - Austin, TX</p> |
| 2:30 pm 0.25 hr | <p>Qui Tam Litigation</p> <p>A discussion of legal developments and cases in Qui Tam litigation.</p> <p>Claudia Wilson Frost, Mayer Brown Rowe & Maw LLP - Houston, TX</p> |
| 2:45 pm 0.25 hr | <p>Choice of Law</p> <p>Choice of law in national class actions. Relevance of defendant's conduct outside the forum for determination of punitive damages.</p> <p>Russell Weintraub, Austin, TX</p> |
| 3:00 pm 0.00 hr 0.25 hr ethics | <p>Ethical Pitfalls Leading to Disqualification in Texas and Federal Courts</p> <p>This session will discuss defending against tactical disqualification motions in litigation.</p> <p>James M. McCormack, Tomblin Carnes McCormack LLP - Austin, TX</p> |
| 3:15 pm 0.00 hr 0.25 hr ethics | <p>Changes in Disciplinary Procedures</p> <p>A discussion of recent revisions to the Texas Rules of Disciplinary Procedure as a result of changes to the State Bar Act.</p> <p>Dawn M. Evans, State Bar Of Michigan - Lansing, MI</p> |