

36th Annual Page Keeton Civil Litigation Conference
October 25-26, 2012 • Four Seasons Hotel • Austin, TX

Thursday Morning, Oct. 25, 2012

Presiding Officer:

William J. Chriss, Gravely & Pearson, L.L.P. - Austin, TX

8:00 am	Registration Opens Includes continental breakfast.
8:50 am	Welcoming Remarks
9:00 am 0.50 hr	Texas Civil Procedure Update: A Look At Recent Decisions and New Rules of Procedure A focus on recent judicial decisions and recent modifications to the Texas Rules of Civil Procedure. A written comprehensive review of recent case law is included as a handy reference tool for practitioners. Elaine Grafton Carlson, South Texas College of Law - Houston, TX
9:30 am 0.50 hr	Deposition Strategies Practical strategies and tips for deciding who should be deposed and how they should be deposed, and what cards to play in depositions and what cards to save for trial. This session will be presented on Friday at 10:45 a.m. Quentin Brogdon, The Law Offices of Frank L. Branson, P.C. - Dallas, TX
10:00 am 0.50 hr	Legislative Update: Motions to Dismiss, Expedited Jury Trials and Responsible Third Parties A discussion of rule changes arising from the last legislative session, including dismissal practice and the trial of cases involving less than \$100K in controversy, as well as the profound changes in responsible third-party practice. David E. Chamberlain, Chamberlain McHaney - Austin, TX W. Bradley Parker, Parker McDonald Law - Bedford, TX
10:30 am	Break
10:45 am 0.50 hr 0.25 hr ethics	The Scope of the Work Product Doctrine and Attorney-Client Privilege under Texas Law The different standards and best practices to preserve privilege and overcome privilege assertions in state court versus federal court, including the discoverability of post-accident investigations, when the work product doctrine is triggered, the duty to preserve evidence, the differences between "core" work product and "ordinary" work product, the ordinary course of business and the substantial need/undue hardship exceptions to the work product doctrine, and privilege logs and burdens of proof. Ethical considerations for attorneys when advising their clients on investigations are addressed, as well as information preservation and production, especially in the gray areas. John F. Sullivan III, Watt Beckworth Thompson Henneman & Sullivan LLP - Houston, TX

11:15 am 0.50 hr 0.25 hr ethics	<p>Pre-Suit Depositions under Rule 202: A Survey of Hot Button Issues</p> <p>Texas Rule of Civil Procedure 202 allows parties to petition for, and courts to grant, pre-suit depositions. In recent years, this discovery tool is being employed with increasing frequency and is generating substantial litigation. Both litigants and Texas courts are struggling with various issues concerning the application of the Rule, including what types of pre-suit depositions may be taken, what a petitioner must prove to obtain pre-suit depositions and whether document production may also be ordered under Rule 202. A look at Rule 202's history and a survey of Texas law on hot button Rule 202 issues.</p> <p>Sean D. Jordan, Sutherland Asbill & Brennan LLP - Austin, TX</p>
11:45 am 0.50 hr ethics	<p>Texas Legal Malpractice: Where Are We Today?</p> <p>A review of changes in Texas legal malpractice over the past ten years, and why those changes happened.</p> <p>Stephen E. McConnico, Scott Douglass & McConnico, L.L.P. - Austin, TX</p>
12:15 pm	<p>Lunch on your Own</p>

Thursday Afternoon, Oct. 25, 2012

Presiding Officer:

Jim M. Perdue Jr., Perdue Kidd & Vickery - Houston, TX

1:30 pm 0.75 hr	<p>Lessons From the Courtroom Trenches</p> <p>Learn from the expert—trial tactics and courtroom techniques for pleading cases before juries, with a focus on opening statements, closing statements and cross examinations.</p> <p>Anthony Douglas Drumheller, Rusty Hardin & Assoc - Houston, TX</p>
2:15 pm 0.50 hr	<p>The Economic Loss Rule</p> <p>Dean Farnsworth is Reporter for the Restatement Third, Torts: Liability for Economic Harm. The first chapter of that project discusses liability for pure economic losses caused by a defendant's negligence. He explains the Restatement's handling of this famously confusing area, in particular the line of separation between claims sounding in contract and tort.</p> <p>Ward Farnsworth, The University of Texas School of Law - Austin, TX</p>
2:45 pm 0.50 hr ethics	<p>Third-Party Arbitration Practice</p> <p>Forcing third parties to participate in an arbitration proceeding may not be as easy as some lawyers assume. Learn the difference between third-party discovery rights under Texas and federal law and when non-signatories can be compelled to arbitration.</p> <p>Adam Troy Schramek, Fulbright & Jaworski L.L.P. - Austin, TX</p>
3:15 pm	<p>Break</p>

3:30 pm 0.50 hr	<p>Needles in a Haystack: Tools and Techniques for Searching Large Document Sets</p> <p>E-discovery is here to stay and tools and techniques exist, with new ones being developed, to help lawyers meet the challenge of finding key information in today's massive electronic productions. A look into the promise of the "Easy Button" with predictive coding, as well as the use of technology tools and simple search methodologies to assist in locating the needles in the haystack.</p> <p>Eric P. Mandel, Zelle Hofmann Voelbel & Mason LLP - Minneapolis, MN</p>
4:00 pm 1.00 hr	<p>Insurance—Show Me the Money!</p> <p>Too often cases either don't settle or settle unfavorably because the plaintiff or defense lawyer—or both—don't know what they should about liability insurance coverage issues. Current issues in liability coverage, especially <i>Stowers</i> problems, are addressed.</p> <p>Moderator: William J. Chriss, Gravely & Pearson, L.L.P. - Austin, TX</p> <p>Panelists: Timothy Micah Dortch, Cooper & Scully, P.C. - Dallas, TX</p> <p>Panelists: Michael W. Huddleston, Shannon, Gracey, Ratliff & Miller LLP - Dallas, TX</p> <p>Panelists: Philip K. Maxwell, Attorney at Law - Austin, TX</p>
5:00 pm	Adjourn

Friday Morning, Oct. 26, 2012

Presiding Officer:

Jim M. Perdue Jr., Perdue Kidd & Vickery - Houston, TX

8:00 am	<p>Conference Room Opens</p> <p>Includes continental breakfast.</p>
8:30 am 0.50 hr	<p>Texas Jury Charge Practice—From the Bar To the Bench and On Appeal</p> <p>A review of the methods and strategies involved in jury charge preservation and recent cases on jury charge issues.</p> <p>Hon. Harvey G. Brown Jr., First Court of Appeals - Houston, TX Melissa Michelle Davis, First Court of Appeals - Houston, TX</p>
9:00 am 0.50 hr	<p>Products Liability Update</p> <p>An important area for products liability cases has become auto defects in the areas of crashworthiness, defective tires, air bags and seat belts. Hear about the cases that arise, defenses and outcomes of products liability cases concerning autos as well as other consumer products.</p> <p>John Blaise Gsanger, The Edwards Law Firm LLP - Corpus Christi, TX</p>

9:30 am 0.50 hr	<p>The Admissibility of Electronic Evidence</p> <p>Learn how to get your electronic evidence into evidence and keep your opponent's electronic evidence out.</p> <p>Steven Goode, The University of Texas School of Law - Austin, TX</p>
10:00 am 0.50 hr	<p>A Refresher and Update on Constructing and Proving Damages</p> <p>Useful tips on when and how to most effectively present and prove damages, primarily in the commercial context.</p> <p>Greg F. Hallman, The University of Texas at Austin, McCombs School of Business - Austin, TX Paul D. Trahan, Fulbright & Jaworski, L.L.P. - Austin, TX</p>
10:30 am	Break
10:45 am 0.50 hr	<p>Top Emerging Issues in Business Torts That Every Lawyer Should Know</p> <p>Recent Texas Supreme Court cases are used to examine major issues in business torts—fiduciary litigation, whether parties can contract away their own fraud, the application of proximate cause, the impact of arbitration on business torts, forum selection clauses and new changes in the law, a new tort of conversion, and new remedies.</p> <p><i>This session will be presented on Thursday at 930 a.m.</i></p> <p>Brian Patrick Lauten, Attorney at Law - Dallas, TX</p>
11:15 am 1.00 hr	<p>The Art of Persuasion: Understanding the Role of Evolution, Perception and Memory on How People Make Decisions</p> <p>Studies from a wide variety of non-legal sciences inform new thoughts on the functioning of the human brain. Trial lawyers can benefit from consideration of insights from neuroscience, sociology and economics in crafting more persuasive and memorable presentations to decision-makers.</p> <p>Charles Herring Jr., Attorney at Law - Austin, TX Jim M. Perdue Jr., Perdue Kidd & Vickery - Houston, TX</p>
12:15 pm 0.50 hr	<p>Personal Jurisdiction in the Internet Age</p> <p>A practical look at the effect global commerce and communications have had on the question of personal jurisdiction in Texas.</p> <p>Karen C. Burgess, Attorney at Law - Austin, TX</p>
12:45 pm	<p>Pick Up Lunch</p> <p>Included in conference registration.</p>

Friday Afternoon, Oct. 26, 2012

Presiding Officer:

Quentin Brogdon, The Law Offices of Frank L. Branson, P.C. - Dallas, TX

Luncheon Presentation

1:00 pm 0.50 hr	<p>The Causes and Effects of Texas' Restrictions on Medical Malpractice Lawsuits</p> <p>Texas adopted extensive restrictions on medical malpractice lawsuits in 2003. Using an enormous dataset of closed claims maintained by the Texas Department of Insurance, academic researchers have studied the causes and effects of this legislation. Was the legislation a response to a crisis of claims, skyrocketing jury verdicts or an exodus of physicians from the state? Did the restrictions discourage claiming, reduce healthcare spending, improve Texans' access to healthcare or save physicians and hospitals money? The answers may surprise you.</p> <p>Charles M. Silver, The University of Texas School of Law - Austin, TX</p>
1:30 pm	Break
1:45 pm 0.50 hr	<p>Economic Loss Rule Developments: A Review of Recent Texas Cases</p> <p>An analysis of recent Texas cases that have addressed aspects of the economic loss rule, including <i>Sharyland Water Supply v. City of Alton</i> and <i>El Paso Marketing v. Wolf Hollow</i>.</p> <p>James E. Wren, Baylor Law School - Waco, TX</p>
2:15 pm 0.50 hr 0.25 hr ethics	<p>The New Texas Anti-SLAPP Statute: Important Issues in Business Tort Litigation</p> <p>In 2011, the Legislature passed a law that creates a new dispositive motion and interlocutory appeals in cases involving communications. Learn about the operation and applicability of the law, its legislative history and evidentiary and procedural traps for the practitioner.</p> <p>Mark C. Walker, Cox Smith Matthews Incorporated - El Paso, TX</p>
2:45 pm 0.50 hr ethics	<p>Hitchhiker's Guide to Fiduciary Duty</p> <p>Pack your "backpack" with the essentials of fiduciary duty law, including the scope of the duty, shifting burdens of proof, actual damages and equitable recoveries, and case law trends.</p> <p>Hon. Renee Forinash McElhaney, 73rd Civil District Court - San Antonio, TX</p>
3:15 pm 1.00 hr 0.25 hr ethics	<p>60 Tips in 60 Minutes</p> <p>An experienced judge, patent prosecutor and trial attorney take turns outlining their fun tips involving civil litigation from plaintiff and defendant perspectives, including effective use of technology, website resources and discovery.</p> <p>Hon. Sharon Sue McCally, Fourteenth Court of Appeals - Houston, TX Antony P. Ng, Yudell Isidore Ng Russell PLLC - Austin, TX Eric Wolf Pinker, Lynn Tillotson Pinker & Cox LLP - Dallas, TX</p>
4:15 pm	Adjourn