

# Ethical Implications of Sua Sponte Waiver Findings

By Scott Rothenberg, Presented to the  
28<sup>th</sup> Annual Conference on State and Federal Appeals

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AT&T Conference Center

1900 University Avenue

Austin, Texas

## The Four Constituencies

Supreme Court of Texas

Intermediate Appellate Courts (Justices and Court  
Personnel)

Attorneys who practice in the intermediate  
appellate courts

Clients in the intermediate appellate courts

What does the Supreme Court of Texas want?

Texas Supreme Court panel

Texas Supreme Court Chief Justice Nathan Hecht

University of Texas Conference on State and  
Federal Appeals

June 6, 2014

“What do you think is the most important case from an appellate practitioner’s standpoint that you’ve seen in the last two or three years?”

“Well for me it’s any case in which we say that appellate procedure shouldn’t get in the way of the presentation of the merits, and should, to the contrary, subserve the presentation of the merits. And we’ve said it I think most recently about ten years ago. But we’ve said it several times in opinions over the years.”

“And its one of the few things– I’ve served with 34 judges over the years on our court– and its one of the few things we almost always, almost all agreed about, at every turn. Was that in the appellate courts at least, every effort should be made to get to the merits. So cases that say that, I think are very important.”

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