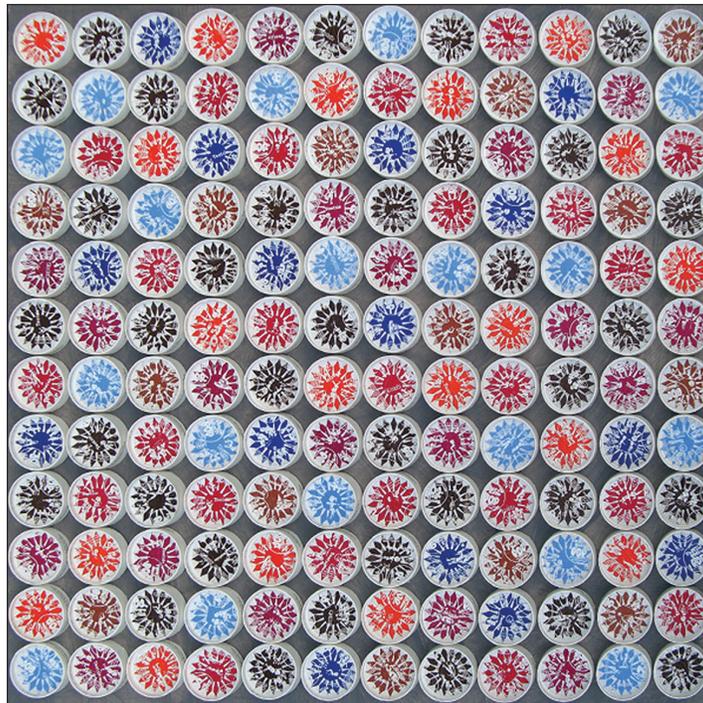


24<sup>TH</sup> ANNUAL CONFERENCE ON  
**STATE AND FEDERAL APPEALS**



June 5–6, 2014

Four Seasons Hotel ■ Austin, Texas

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**THURSDAY MORNING, JUNE 5, 2014**

**Presiding Officer:**

**Pamela Stanton Baron, Attorney at Law,  
Austin, TX**

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

Includes continental breakfast.

**8:30 a.m. Welcoming Remarks**

**8:40 a.m. .33 hr**

**State Mandamus Update**

A look at the past year's key mandamus decisions and what they portend for the future.

Scott P. Stolley, Thompson & Knight LLP, Dallas, TX

**9:00 a.m. .50 hr**

**Procedural Update**

Coverage of the most recent Texas cases and amended rules of procedure affecting civil trial and appellate practices.

Elaine Grafton Carlson, South Texas College of Law, Houston, TX

**Co-Author:**

Courtney Taylor Carlson, Jackson Walker L.L.P., Houston, TX

**9:30 a.m. .50 hr ethics**

**Briefing Waiver Update**

Look into recent cases and trends on briefing waiver, review the briefing standards in Texas appellate courts, and learn practical suggestions for avoiding briefing waiver.

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

**10:00 a.m. .50 hr ethics**

**Prevailing in the Face of "White Horse Authority"**

A client hires you on appeal in a "must win" case, but your research reveals authority that is directly against your client's position. Explore techniques and strategies that you can, and sometimes must, use when confronted with "white horse authority" that is adverse to your client's position.

Scott Rothenberg, Law Offices of Scott Rothenberg, Houston, TX

**10:30 a.m. Break**

**10:45 a.m. .50 hr ethics**

**Can I Cite Wikipedia?**

Is it ethical and advisable to cite Internet authority? How reliable are online sources compared to published sources? When do cites to the Internet constitute prohibited extra-record materials? If it's on the Internet, it's not always the truth!

Robert B. Dubose, Alexander Dubose Jefferson & Townsend LLP, Houston, TX

**11:15 a.m. .50 hr**

**Extreme Brief Makeover**

Writing and persuading in the 21<sup>st</sup> Century.

Hon. Scott A. Brister, Andrews Kurth LLP, Austin, TX  
Kendall M. Gray, Andrews Kurth LLP, Houston, TX

**11:45 a.m. Pick Up Lunch**

Included in registration.

**THURSDAY AFTERNOON**

**Presiding Officer:**

**Richard B. Phillips Jr., Thompson & Knight LLP, Dallas, TX**

**LUNCHEON PRESENTATION**

**12:05 p.m. .75 hr**

**Can You Make Your Audience Smarter?**

Lawyers often say, "They just couldn't get it." But what if it was you and not them? Persuasive legal writing and argument requires smart thinking. This presentation offers ideas of how to frame choices, present questions, and tailor language that appeal to brain pathways and decision schemas designed to compel your desired result.

Jim M. Perdue Jr., Perdue & Kidd, LLP, Houston, TX

**12:50 p.m. Break**

**1:05 p.m. .50 hr ethics**

**Sneaky Ethics**

Some ethical issues are "in your face," while others sneak up on you, disguised as everyday tasks. Whether they are woven into the rules, created by emerging case law, or generated by case management issues, these sneaky ethical issues are a lot easier to handle properly when you know how to spot them.

Kirsten Castañeda, Locke Lord LLP, Dallas, TX

**1:35 p.m. .50 hr**

**Compensatory Damages**

Recent developments on how to minimize or maximize your damage award on appeal.

Philip Durst, Deats, Durst, Owen & Levy, P.L.L.C., Austin, TX

**2:05 p.m. .50 hr**

**TCPA: Slapping Around Anti-SLAPP**

A case study in statutory construction.

Hon. William J. Boyce, Fourteenth Court of Appeals, Houston, TX

**2:35 p.m. .33 hr**

**Harmless Error**

How to determine when error is harmless and when it is not.

Hon. Rebeca Huddle, First Court of Appeals, Houston, TX

**2:55 p.m. Break**

**3:05 p.m. .42 hr**

**A Prayer and A Hope**

Do appellate courts answer prayers? Effective prayers to get the relief you really want.

Lisa Bowlin Hobbs, Kuhn Hobbs PLLC, Austin, TX

**3:30 p.m. .50 hr**

**Oral Argument: Organization and Preparation**

A look at argument preparation, mooting the argument, and effectively answering questions from the bench. One of the state's leading oral advocates explains the secrets of his success.

David Keltner, Kelly Hart & Hallman LLP, Fort Worth, TX

**4:00 p.m. .42 hr**

**Post-Submission Briefs**

Thoughts on the strategies and procedures for filing post-submission briefs.

Amy J. Schumacher, Attorney at Law, Austin, TX

4:25 p.m. .75 hr ethics

### What Do Judges Know about What Other Judges Know About Ethics

In a game-show format, Judges from the First and Fourteenth Courts of Appeals are asked how their fellow colleague panelists would answer a series of ethics questions. This friendly competition is designed to find out what these judges know (or possibly don't know) about ethics and each other.

**Moderator:**

Daryl L. Moore, Attorney at Law, Houston, TX

**Panelists:**

Hon. Jane Bland, First Court of Appeals, Houston, TX  
Hon. Harvey G. Brown Jr., First Court of Appeals, Houston, TX  
Hon. Tracy Christopher, Fourteenth Court of Appeals, Houston, TX  
Hon. Kenneth P. Wise, Fourteenth Court of Appeals, Houston, TX

5:10 p.m. Adjourn

## FRIDAY MORNING, JUNE 6, 2014

**Presiding Officer:**

Elana S. Einhorn, The University of Texas School of Law, Austin, TX

7:30 a.m. Conference Room Opens

Includes continental breakfast.

8:30 a.m. .42 hr

### Federal Mandamus Update

From *Volkswagen* to *Crystal Power* to *Radmax* and beyond—what you need to know about the changing landscape of mandamus review in the Fifth Circuit.

Dana Livingston, Alexander Dubose Jefferson & Townsend LLP, Austin, TX

8:55 a.m. .33 hr

### Go Directly to the Texas Supreme Court

A look at the various paths to the Supreme Court that bypass the State Courts of Appeals.

Rance Craft, Office of the Attorney General, Austin, TX

### ABOUT THE COVER



*The Right Triangles*, 32" x 40" collage of paint color sample chips, origami paper, old law books and acrylic, is by Philip Durst. For more information, visit [www.davisgalleryaustin.com/artist.durst.html](http://www.davisgalleryaustin.com/artist.durst.html).

9:15 a.m. .50 hr

### Electronic Trail through the Clerk's Office

A video-enhanced journey following a case from filing all the way to opinion/decision.

Michael A. Cruz, The Supreme Court of Texas, Austin, TX

9:45 a.m. .50 hr

### Questions for the Clerk of the Supreme Court of Texas

The Clerk of the Supreme Court of Texas answers your questions about practice before the Court including eFiling and eBriefing. Please submit your questions in advance to [service@utcle.org](mailto:service@utcle.org) or onsite at the conference registration desk.

Blake A. Hawthorne, The Supreme Court of Texas, Austin, TX

**Moderator:**

Steven K. Hayes, Attorney at Law, Fort Worth, TX

10:15 a.m. Break

10:30 a.m. .50 hr

### Interview with Former Chief Justice Wallace B. Jefferson

The former Chief Justice offers insights and tips for practitioners before the court.

Pamela Stanton Baron, Attorney at Law, Austin, TX  
Hon. Wallace B. Jefferson, Alexander Dubose Jefferson & Townsend LLP, Austin, TX

11:00 a.m. .50 hr

### Texas Supreme Court Update

A look at recent opinions issued by the Court in the current term.

Hon. Jeff Brown, The Supreme Court of Texas, Austin, TX

**Author:**

Heather Jones Holmes, The Supreme Court of Texas, Austin, TX

11:30 a.m. .75 hr

### Texas Supreme Court Panel

A candid conversation with the Justices about what's new at the Court, the state of the docket, and ways practitioners can improve their chances of obtaining favorable relief for their clients.

**Moderator:**

Jeffrey S. Levinger, Levinger PC, Dallas, TX

**Panelists:**

Hon. Nathan L. Hecht, The Supreme Court of Texas, Austin, TX  
Hon. Jeffrey S. Boyd, The Supreme Court of Texas, Austin, TX  
Hon. Phil W. Johnson, The Supreme Court of Texas, Austin, TX

## FRIDAY AFTERNOON

**Presiding Officer:**

Hon. Gregory T. Perkes, Thirteenth Court of Appeals, Corpus Christi, TX

### LUNCHEON WITH THE JUDICIARY

12:15 p.m.

Included in registration.

A unique opportunity to meet and discuss issues with members of the judiciary. Please select, "Yes, I will attend" on the registration form to attend.

### THANK YOU TO OUR LUNCHEON SPONSORS

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1:05 p.m. Return to General Session

1:15 p.m. .50 hr

### 2014 Update for Appellate Attorneys from the Fifth Circuit Clerk of Court

The Clerk of the Fifth Circuit discusses recent rule changes and technological advances.

Lyle Cayce, U.S. Court of Appeals, Fifth Circuit, New Orleans, LA

1:45 p.m. .50 hr

### Fifth Circuit Update

Recent opinions and trends in civil litigation.

David S. Coale, Lynn Tillotson Pinker & Cox, L.L.P., Dallas, TX

2:15 p.m. .50 hr

### U.S. Supreme Court Update

A survey of the U.S. Supreme Court rulings for this term.

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

2:45 p.m. .42 hr

### Challenging Arbitration Awards

What's new in challenging arbitration awards in state and federal courts.

Mark Trachtenberg, Haynes and Boone, LLP, Houston, TX

3:10 p.m. Adjourn

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This course has been approved for Minimum Continuing Legal Education credit by the State Bar of Texas Committee on MCLE in the amount of 13.00 hours, of which 2.75 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).

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**Fax:**  
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**Questions? 512.475.6700**

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Call 512.475.6700 or email service@utcle.org*

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**After the Conference:** Unlimited access to final, complete course materials—downloadable PDFs of papers and slides—in *Your Briefcase*.

**Bonus eCourses:** Complimentary 180-day access to Bonus eCourses—with papers, slides, and audio—for CLE credit you may have missed at the conference. Available in *Your Briefcase* 6–8 weeks after the conference.

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For Group registration, call 512.475.6700.

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##### Individual

- Registration by Wednesday, May 28 . . . . . \$595  
 Registration after Wednesday, May 28 . . . . . \$645

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 Registration after Wednesday, May 28 . . . . . \$400

##### Judicial Employee (Appellate)\*

- Registration . . . . . \$225

\*Registration MUST be accompanied by a letter from a sponsoring judge

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- Electronic Course Binder on USB Key ONLY  
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- Yes, I will attend . . . . . Included in registration

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**AUSTIN**

June 5–6, 2014

**CONFERENCE LOCATION**



**Four Seasons Hotel**  
 98 San Jacinto Blvd.  
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**Special Room Rate: \$245**  
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 (subject to availability)

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 \$32.50 overnight self or valet

**KEY DATES**

**May 28, 2014**

*last day for early registration*  
 add \$50 for registrations  
 received after this time

**May 30, 2014**

*last day for cancellation (full refund)*

**June 2, 2014**

*last day for cancellation (partial refund)*  
 \$50 processing fee applied

**June 5, 2014, 8:30 a.m.**

*Conference begins*

**REMARKS FROM ATTENDEES ABOUT STATE AND FEDERAL APPEALS**

All speakers are clearly all-stars in their respective fields. The format is great and diverse enough to keep it interesting and moving along.

This is a great CLE. I think it is organized perfectly. The speakers are fantastic, speak from experience and provide very practical information. Hats off to the planning committee and speakers!

Always an enjoyable experience—content, topics, format, and speakers are excellent!

Crisp on-schedule presentation and great speakers.

One of the best CLEs. Excellent program and good content.

The substantive presentations and papers are very helpful to me and those with whom I practice.

Great balance between new topics and the regular bread-and-butter topics.

As always, an outstanding program and outstanding speakers.

Format of the program is great—touches on a lot of topics and the thorough written materials allow focus on the topics most relevant to our practice.

The panels are really good—cover a number of topics and provide insightful and candid responses.