

32nd Annual Conference on State and Federal Appeals
June 16-17, 2022 • AT&T Conference Center • Austin, TX
June 16-17, 2022 • Live Webcast

Thursday Morning, Jun. 16, 2022

Presiding Officer:

Jane M. N. Webre, Scott Douglass & McConnico LLP - Austin, TX

7:30 am In Austin Only	Registration Opens Includes continental breakfast.
8:20 am	Welcoming Remarks
8:30 am 0.50 hr	Texas Supreme Court by the Numbers A new look at what has been happening with petitions and what that suggests about your client's odds. Don Cruse, Law Office of Don Cruse - Austin, TX
9:00 am 0.75 hr	Mandamus: A Look Behind the Curtain A discussion of the Texas Supreme Court's decision-making process for mandamus petitions and related motions for emergency temporary relief, including ways practitioners can improve their chances of securing the mandamus relief their clients seek when they need it. Hon. Jane N. Bland, The Supreme Court of Texas - Austin, TX David M. Gunn, Beck Redden LLP - Houston, TX Colleen M. Sullivan, The Supreme Court of Texas - Austin, TX Co-Author: Nicholas Bruno, Beck Redden LLP - Houston, TX
9:45 am 0.50 hr	Appellate Review of Prior Restraints on Speech Prior restraints—judicial prohibitions against future speech enforced by contempt—are often considered the quintessential form of unconstitutional government censorship. When can a court grant this extraordinary remedy? Hear a discussion of the legal and evidentiary standards applied by Texas and federal courts when considering applications for prior restraints, with a focus on recent efforts in Texas and elsewhere to use the judicial system to block perceived critical or 'dangerous' speech. Peter D. Kennedy, Graves, Dougherty, Hearon & Moody - Austin, TX
10:15 am	15-Minute Break
10:30 am 0.50 hr	Remote Court Proceedings: Are They Ever Going Away? Learn how remote proceedings can continue to be useful, including updates from the Supreme Court's remote proceedings task force. Hon. Emily Miskel, 470th District Court - McKinney, TX

11:00 am 0.50 hr	How Much is Too Much?: Review of the Excessiveness of Damages When less is more, enough is enough, and you can never have too much. Jeffrey S. Levinger, Levinger PC - Dallas, TX Connie H. Pfeiffer, Yetter Coleman LLP - Houston, TX
11:30 am 0.75 hr	Texas Supreme Court Panel Hear a candid conversation among the Justices about what is new at the Court, the state of the docket, and ways practitioners can improve their chances of securing discretionary review for their clients. Moderator: Amy Warr, Alexander Dubose & Jefferson LLP - Austin, TX Panelists: Hon. Nathan L. Hecht, Supreme Court of Texas - Austin, TX Hon. Rebeca Huddle, Supreme Court of Texas - Austin, TX Hon. Evan A. Young, Supreme Court of Texas - Austin, TX
12:15 pm In Austin Only	Pick Up Lunch (in Austin) Included in registration.

Thursday Afternoon, Jun. 16, 2022

Presiding Officer:

Jane M. N. Webre, Scott Douglass & McConnico LLP - Austin, TX

LUNCHEON PRESENTATION

12:45 pm 0.75 hr 0.50 hr ethics	Get Schooled! Practice and Professional-Identity Lessons from Law School Clinics Law schools are expanding clinical offerings in which students represent clients pro bono on a wide range of issues. A discussion on how clinical courses train soon-to-be lawyers in real-world contexts with real-world clients, offering real-life lessons on professional responsibility and professional identity that can benefit seasoned practitioners as well. Explore ideas on how clinics can enhance your appellate practice at no cost by, for example, serving as co-counsel, writing amicus briefs, or organizing moots in cases that fall within clinics' missions. Lisa R. Eskow, University of Texas School of Law Supreme Court Clinic - Austin, TX Thomas S. Leatherbury, SMU Dedman School of Law First Amendment Clinic and Vinson & Elkins LLP - Dallas, TX Lulú Ortiz, Law Clerk for Judge Pitman - Austin, TX Evan M. Rios, The Supreme Court of Texas - Austin, TX
1:30 pm	15-Minute Break
1:45 pm 0.50 hr	U.S. Supreme Court Update This year at the Court has been anything but business as usual. Examine a Court in transition as it winds up a blockbuster term. Daniel L. Geyser, Haynes and Boone, LLP - Denver, CO

2:15 pm 0.50 hr	<p>Preparing for Oral Argument</p> <p>Hear a practical, step-by-step guide to preparing for appellate arguments, drawing on the best practices of some of Texas's top appellate practitioners.</p> <p>Anne M. Johnson, Tillotson Johnson & Patton - Dallas, TX</p>
2:45 pm 0.50 hr 0.25 hr ethics	<p>Error Resurrection</p> <p>Appellate lawyers often get called into the game late. This presentation provides tips on preserving arguments for appeal that might—at first blush—seem lost.</p> <p>Hon. Daryl L. Moore, Ahmad Zavitsanos Anaipakos Alavi Mensing, PC - Houston, TX Kelsi Stayart White, Ahmad, Zavitsanos, Anaipakos, Alavi & Mensing P.C. - Houston, TX</p>
3:15 pm	<p>10-Minute Break</p>
3:25 pm 0.50 hr ethics	<p>What Every Attorney Needs to Know About Cybersecurity</p> <p>Review an attorney's ethical duty to safeguard client information, then explore how that duty intersects with cyber threats, including ransomware and data breaches. The speakers provide a list of best practices for securing your electronic devices at home and while traveling.</p> <p>Jennifer S. Freel, Jackson Walker LLP - Austin, TX Co-Author: David Springer, Dropbox, Inc. - Austin, TX</p>
3:55 pm 0.75 hr ethics	<p>Ethics "Game Show"</p> <p>Watch guest "celebrities" match wits in a fast-paced game of "Wait Wait ... Don't Sue Me!"</p> <p>Moderator: Elizabeth G. (Heidi) Bloch, Greenberg Traurig, LLP - Austin, TX Panelists: Mia Lorick, Locke Lord LLP - Houston, TX Laurie Ratliff, Laurie Ratliff LLC - Austin, TX Jane M. N. Webre, Scott Douglass & McConnico LLP - Austin, TX</p>
4:40 pm	<p>Adjourn</p>
In Austin Only	<p>Networking Reception (in Austin from 4:40 p.m. - 5:40 p.m.)</p> <p>Join us for drinks and hors d'oeuvres with program faculty and attendees.</p>

Friday Morning, Jun. 17, 2022

Presiding Officer:

Dana Livingston, Cokinos | Young - Austin, TX

7:30 am In Austin Only	<p>Conference Room Opens</p> <p>Includes continental breakfast.</p>
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8:30 am 0.50 hr	<p>Statutory Stays, Rule 29.3 Orders, and Other Short-Term Fixes</p> <p>When certain interlocutory orders are appealed, trial courts may be powerless to enforce injunctive relief and prevent mischief; but appellate courts can come to the rescue. Explore how practitioners can obtain favorable temporary orders from appellate courts during interlocutory appeals.</p> <p>David J. Campbell, O'Hanlon, Demerath & Castillo, PC - Austin, TX</p>
9:00 am 0.50 hr 0.25 hr ethics	<p>Remedy: Remand, Render, or Retreat?</p> <p>A win is only as good as the remedy. Explore best practices, limits on requesting and affording relief, and the law of remedy from the perspective of both practitioners and courts.</p> <p>Hon. Sarah Beth Landau, First Court of Appeals of Texas - Houston, TX Amanda G. Taylor, Butler Snow LLP - Austin, TX</p>
9:30 am 0.50 hr ethics	<p>Emergency Toolkit for Grievances and Sanctions Orders</p> <p>No lawyer expects to be the recipient of a grievance or an order to pay sanctions. Consider this program as your emergency toolkit to help you not only survive but thrive while handling these situations both efficiently and effectively.</p> <p>Scott Rothenberg, Law Office of Scott Rothenberg - Bellaire, TX</p>
10:00 am	<p>15-Minute Break</p>
10:15 am 0.50 hr ethics	<p>What <i>Landry's</i> Means for Press Statements</p> <p>Last year, the Texas Supreme Court held that an attorney's statements to the press are not immune from defamation claims. Now, what's an attorney to say, and what legal protections remain?</p> <p>Marc Fuller, Jackson Walker LLP - Dallas, TX</p>
10:45 am 0.50 hr	<p>Permissive Appeals in the Wake of <i>Sabre Travel</i></p> <p>In 2019, the Texas Supreme Court strongly encouraged courts of appeals to exercise their discretion to accept certified permissive interlocutory appeals when the statutory requirements have been met. How has this guidance affected courts' approaches to petitions for permission to appeal?</p> <p>Richard B. Phillips Jr., Holland & Knight LLP - Dallas, TX</p>
11:15 am 0.75 hr	<p>Texas Supreme Court Update</p> <p>Explore recent opinions issued by the Court in the current term.</p> <p>Kurt Kuhn, Kuhn Hobbs PLLC - Austin, TX Materials By: Hon. Jeff Boyd, Supreme Court of Texas - Austin, TX</p>
12:00 pm In Austin Only	<p>30-Minute Break (in Austin)</p>

Friday Afternoon, Jun. 17, 2022

Presiding Officer:

Leslie Sara Hyman, Pulman, Cappuccio & Pullen, LLP - San Antonio, TX

12:30 pm In Austin Only	<p>Optional Luncheon with the Judiciary (in Austin)</p> <p>Take advantage of this unique opportunity to meet and discuss issues with members of the judiciary. Please select "Luncheon with the Judiciary" on the registration form to attend (\$50 additional charge).</p>
1:15 pm In Austin Only	<p>Return to General Session (in Austin)</p>
1:30 pm 0.50 hr	<p>Arbitration Update</p> <p>Overview of recent state and federal appellate court decisions on hot topic issues like arbitrability, mandatory arbitration clauses, grounds for vacatur, and federal question jurisdiction under the FAA.</p> <p>Marla Diane Broaddus, Enoch Kever PLLC - Austin, TX Michael S. Truesdale, Enoch Kever PLLC - Austin, TX Co-Author: Zach Horton, Enoch Kever PLLC - Austin, TX</p>
2:00 pm 0.50 hr	<p>U.S. Fifth Circuit Update</p> <p>This presentation covers the most interesting and important cases from the U.S. Court of Appeals for the Fifth Circuit in the past year.</p> <p>Raffi Melkonian, Wright Close & Barger, LLP - Houston, TX</p>
2:30 pm 0.50 hr	<p>Doctrine in Crisis: Stare Decisis</p> <p>No clear framework exists for determining when the Supreme Court should overturn a case it wrongly decided or when a Fifth Circuit panel can ignore an earlier panel decision. This muddle not only creates challenges for attorneys arguing a prior decision is not controlling, but also poses problems for the rule of law. Explore recent decisions grappling with stare decisis principles and discuss the ethical and practical considerations at play for appellate advocates.</p> <p>Jessica Asbridge, Baylor Law School - Waco, TX</p>
3:00 pm 0.50 hr	<p>What does the SCOTUS Shadow Docket Mean for Appellate Practitioners (and the country)?</p> <p>Over the past year, we've seen increased attention to the Supreme Court's "shadow docket" not only from practitioners, scholars, and the media, but from the Justices themselves—including growing accusations from a minority of the Justices that the majority is abusing the Court's procedural orders to effect substantive changes in the law, and growing complaints from the majority about what Justice Kavanaugh called the "worn-out rhetoric" concerning the shadow docket. This session will ask what practitioners ought to make of these developments—and what they mean not only for appellate litigation in state and federal courts, but for the legal system writ large?</p> <p>Stephen Vladeck, The University of Texas School of Law - Austin, TX</p>
3:30 pm	<p>Adjourn</p>