



# **Eastern District Bench Bar Conference**

**Plano Marriott Legacy Town Center**  
7120 Dallas Parkway, Plano, Texas 75024  
October 24, 25 & 26, 2012



*“The Right Side of Texas”*

# THE ART OF PERSUASION: A TEXAS PERSPECTIVE

**Wednesday, October 24, 2012**

- 11:30** **Golf - The Honors Golf Club Dallas**  
**Sponsored by:** Haltom & Doan, McKool Smith, P.C. & Winston & Strawn LLP
- 6:00 - 7:30 PM** **Opening VIP Reception**  
**Sponsored by:** StoneTurn Group
- 10:00 PM** **Private Showing of "Bernie" at Angelika, Plano Legacy Town Center**

**Thursday, October 25, 2012**

- 7:30 - 8:30 AM** **Breakfast**  
**Sponsored by:** Dovel & Luner LLP; Findlay Craft, LLP & Munck Wilson Mandala LLP
- 8:30 AM** **Opening of Conference**  
President Eric Albritton & Chairman Clyde Siebman
- 8:35 AM** **Welcome from the Chief**  
Chief Judge Leonard Davis
- 8:50 AM** **Former Judges: Walking & Talking Among the Mortals**  
Former judges speak plainly about what every judge would like to say, but can't. What judges like, don't like, and what lawyers should do, but they don't.  
Former Chief Judge David Folsom & Judge Chad Everingham

**9:40 AM**

## **Choosing When & Where to Fight & What to Fight About**

Lessons from the Texas War of Independence. The Alamo, Goliad & San Jacinto. Great battles and how they were decided by the general who carefully defined the battlefield, or didn't.

**Moderator:** Jay Johnson, Former General Counsel, Texas Instruments (Retired) Panelists: Alan Fisch, Rocky Schwartz, Shamoil Shipchandler & Arnold Spencer

**10:30 AM**

## **BREAK**

**10:50 AM**

## **Voir Dire to Opening Statements. The First Impression**

From "vwahr deer" or "vorr DY-urr" to whether it's an opening argument or opening statement. Views from the trenches to the benches.

**Moderator:** Sam Baxter Panelists: David Beck, Scrappy Holmes & Judge Michael Schneider

**11:40 AM**

## **Preparing, Presenting & Cross-examining the Interested & Expert Witness**

From snitches to inventors to experts to corporate representatives, exploring the challenges of presenting and cross-examining interested witnesses.

**Moderator:** Trey Yarbrough Panelists: Robb Adkins, Henry Bunsow & Judge Don Bush

**Thursday, October 25, 2012**

**12:30 PM**

**Lunch**

**Sponsored by:** Akin Gump Strauss Hauer & Feld, LLP; Hartline Dacus Barger Dreyer LLP & Williams, Morgan and Amerson, P.C.

**Remarks from Judge Carl Stewart, Fifth Circuit Court of Appeals**

**1:45 PM**

**Closing the Deal**

Can the case be won or lost in the closing argument, and how?

**Moderator:** Judge T. John Ward. Panelists: Michael Gibson, George Pappas & Robert Van Nest

**2:30 PM**

**It's Only Words, But Words Are All We Have**

What you should file, when you should file it, and what you should never file. What you should say, how you should say it, and what you should never say.

**Moderator:** Merrie Spaeth, Spaeth Communications, Inc. Panelists: Judge William Bryson, Judge Carl Stewart, Judge Rodney Gilstrap & Samara Kline

**3:30 PM**

**BREAK**

**3:45 PM**

**Ethical Considerations of the Client Chase**

Discussion of ethical guidelines and law practice pressures impacting a wide range of activities including advertising, solicitation and representing co-defendants and witnesses.

**Moderator:** David Fisher. Panelists: Linda Acevedo, Chief Disciplinary Counsel, SBOT; Luke Ashley; Geoff Eaton & Mike Miller

**4:45 PM**

**East Texas Ethics & Etiquette**

Discussion of survey results of what to do and not do in East Texas.

**Moderator:** Lance Lee Panelists: Judge John Love, Amanda Abraham & Jennifer Truelove

**5:30 PM**

**Adjourn**

**6:15 PM**

**Chief Judge & President's Reception**

**Sponsored by:** Locke Lord Bissell & Liddell LLP & Research in Motion/Blackberry

**7:30 PM**

**Chief Judge & President's Dinner**

**Sponsored by:** Alston & Bird; Potter Minton, PC & Thompson & Knight LLP

**Judge Ken Starr, President, Baylor University, Keynote Address**

## Thursday, October 25, 2012

**9:30 - 11:30 PM** **Dancing With Emerald City**  
**Sponsored by:** Greenberg Traurig Texas  
& The Roth Law Firm

**10:00 PM** **After Hours in the Conference Suite**

## Friday, October 26, 2012

**7:00 - 8:30 AM** **Breakfast**  
**Sponsored by:** Baker & Botts L.L.P.; Davis Firm,  
PC & Kenyon & Kenyon LLP

**8:30 AM** **Story Telling & the Art of Persuasion**  
Karen Smolar, Esq., Trial Chief, Bronx Defenders  
Academy; Doug Cawley & Fay Morisseau

**9:45 AM** **Former Juror Panel**  
**Persuasion seen from inside the box**  
Judge Judith Guthrie, Jason Cassel & Jennifer  
Doan with mystery jurors from closed cases

**10:30 AM** **BREAK**

## Focus on Patent Law

**10:45 AM** **The DFW USPTO: Who, What, When & Where?**  
Discussion of what to expect as the USPTO  
prepares to open its Regional DFW office

Judge James Smith, Chief Administrative Patent  
Judge, USPTO & Hilda Galvan

**11:05 AM** **Key ED Texas Patent Decisions & Federal  
Circuit Trends**  
Review of leading ED Texas patent decisions and  
trends in Federal Circuit

**Moderator:** Michael Smith Panelists: Jennifer  
Parker Ainsworth, Peter Corcoran & Judge Roy  
Payne

**11:50 AM** **Into the Future: What's Ahead?**  
A focus on what lies ahead for intellectual property.  
Is the patent bargain changing? Where do trade  
secrets fit in? Is IP protection an economic engine  
for America?

**Moderator:** Professor Xuan-Thao Nguyen, SMU  
Dedman School of Law Panelists: Bart Showalter  
& Professor David Taylor, SMU Dedman School of  
Law

**12:35 PM** **Joint Session Lunch**  
**Sponsored by:** Cooley LLP; King & Spalding LLP  
& Winston & Strawn LLP

**Remarks by Rusty Hardin**

## Friday, October 26, 2012

1:30 PM

### **Balancing the Equities & Interests: Do Defendants Really Want to Go It Alone?**

Panel discussion on the issues of scheduling, claim construction and trial in situations where a patent is alleged to be infringed by multiple parties

**Moderator:** Charles “Chip” Molster Panelists: Chief Judge Leonard Davis, Mark Flagel, Ronald Schutz & Wayne Stacey

2:15 PM

### **What Does Technology Have To Do With It?**

Panel discussion on the interplay between the technology side of a patent case and the art of persuasion that is involved in other civil jury trials.

**Moderator:** Philip Philbin Panelists: David Keyzer, Scott Partridge & Carl Roth

3:00 PM

### **Patent Dim Sum. The Ultimate Judge’s Panel**

Interactive discussion between attendees and Eastern District of Texas Judges on hot topics ranging from infringement and invalidity contentions to MDLs, discovery & damages. What is on the mind of bench and bar?

**Moderator:** Johnny Ward Panelists: Chief Judge Leonard Davis, Judge Ron Clark, Judge Rodney Gilstrap, Judge Michael Schneider, Judge Caroline Craven, Judge Keith Giblin, Judge John Love & Judge Amos Mazzant

## Focus on Criminal Law

10:45 AM

### **eDiscovery and ESI**

Panel discussion of the recently released ESI protocol for use in federal criminal cases developed through a collaborative effort with the Courts, Department of Justice and the defense bar.

Marlo Cadeddu, Northern District of Texas Electronic Discovery Coordinator & Sean Broderick, National Litigation Support Administrator with the AO of US Courts

11:45 AM

### **Key Supreme Court, Fifth Circuit and ED Texas Criminal Law Decisions of 2011-2012**

Judy Madewell, Assistant Federal Public Defender, Western District of Texas

12:35 PM

### **Joint Session Lunch**

**Sponsored by:** King & Spalding LLP & Winston & Strawn LLP

**Remarks by Rusty Hardin**

1:30 PM

### **Preservation of Error: Avoiding Plain Error Review**

Discussion of preservation of error during pre-trial and trial.

Judge Jennifer Elrod, Fifth Circuit Court of Appeals; Deborah Pearce & Bryan DeTray, Fifth Circuit Court of Appeals, Staff Attorney’s Office

## Friday, October 26, 2012

2:15 PM

### Cybercrimes

Computers are gifts which just seem to keep on giving when it comes to federal criminal prosecutions. This session will focus on federal computer and internet crimes such as hacking, identity theft, cyber-stalking, unauthorized password use, and fraud.

Ken Hawk, Assistant Federal Public Defender, Eastern District of Texas

3:00 PM

### Effective Advocacy at Sentencing

Panel discussion of sentencing trends and issues, and how to persuade the Court.

Judge Marcia Crone, Judge Richard Schell & Judge Zack Hawthorn; Malcom Bales, United States Attorney, Eastern District of Texas & Pat Black, Federal Public Defender, Eastern District of Texas

## Focus On General Civil Litigation

10:45 AM

### Key EDTX Non-Patent Decisions of 2011-2012

A discussion and update regarding recently decided significant decisions from the Eastern District of Texas.

Sean Rommel; Melissa Smith & Michael Truncala

11:45 AM

### Re-Emerging Oil and Gas Litigation

Royalty and working interest disputes and contract cases

Dick Watt, Watt Beckworth

12:35 PM

### Joint Session Lunch

**Sponsored by:** King & Spalding LLP & Winston & Strawn LLP

**Remarks by Rusty Hardin**

1:30 PM

### Thinking Outside the Box

Developing and defending new causes of action when recovery options are shrinking

Kurt Kern & Todd Tracey

2:15 PM

### Cognitive Biases; A Look at the Science of Persuasion

Stanley Curbo (Courtroom Sciences, Inc.)

3:00 PM

### The East Texas Tool Box: What Seasoned Trial Lawyers Use to Persuade Jurors

Judge Robert Parker; Judge Judith Guthrie; George Chandler & Tom Melsheimer

4:00 - 4:30 PM

### Annual Meeting of ED Texas Bar Association

## 2012 Conference Sponsors

**Akin Gump Strauss Hauer & Feld, LLP**

Albritton Law Firm

**Alston & Bird LLP**

Antonelli, Harrington & Thompson LLP

**Baker & Botts L.L.P.**

Beck Redden & Secrest, LLP

Law Offices of Frank Branson, P.C.

Capshaw DeRieux, L.L.P.

Collins Edmonds Pogorzelski Schlather & Tower, PLLC

**Cooley LLP**

**Davis Firm, PC**

**Dovel & Luner LLP**

**Duff & Phelps**

East Texas Litigation Consulting, LLC

**Findlay Craft, LLP**

Finnegan, Henderson, Farabow, Garrett & Dunner, LLP

Fulbright & Jaworski L.L.P.

Gillam & Smith, L.L.P.

**Greenberg Traurig Texas**

**Haltom & Doan**

**Hartline Dacus Barger Dreyer LLP**

Hitchcock Evert LLP

Jackson Walker L.L.P.

Kaye Scholer LLP

**Kenyon & Kenyon LLP**

**King & Spalding LLP**

Klemchuk Kubasta LLP

Kramer Levin Naftalis & Frankel LLP

Lance Lee, Attorney at Law

Latham & Watkins LLP

**Locke Lord Bissell & Liddell LLP**

**McKool Smith, PC**

Morgan, Lewis & Bockius LLP

**Munck Wilson Mandala LLP**

Nix, Patterson & Roach LLP

Parker, Bunt & Ainsworth, P.C.

**Potter Minton, A Professional Corporation**

**Research In Motion/Blackberry**

Rimkus Consulting Group, Inc.

Robins, Kaplan, Miller & Ciresi L.L.P.

**The Roth Law Firm**

Siebman, Burg, Phillips & Smith, L.L.P.

Stevens | Love

**StoneTurn Group**

Tadlock Law Firm

**Thompson & Knight LLP**

Weil, Gotshal & Manges LLP

**Williams, Morgan and Amerson, P.C.**

Wilson, Robertson & Cornelius

Wilson Sonsini Goodrich & Rosati P.C.

**Winston & Strawn LLP**

Yarbrough Wilcox Gunter, PLLC

*\* Event Sponsors Indicated In Bold  
Partial list of sponsors at time of publishing*



# *16th Annual Eastern District of Texas Bench Bar Conference*

**Chief Judge Leonard Davis • ED Texas Bar President Eric Albritton  
Conference Chairman: Clyde M. Siebman**

## *Planning Committee*

Amanda A. Abraham  
Eric Albritton  
Joel Androphy  
Patrick Arenz  
Stephanie Barnes  
Natalie Bennett  
Elizabeth Black Berry  
Patrick Black  
Charles Bundren  
Jason Butscher  
Jason Cassel  
Douglas Cawley  
Pete Chassman  
Michael Chibib  
Max Ciccarelli  
Peter Corcoran  
William Cornelius, Jr.  
Judge Caroline Craven  
Jennifer Doan  
Steve Edwards  
Chad Everingham

Elisabeth Evert  
Rosa Ferguson  
Alan Fisch  
Mark Flagel  
Debby Gunter  
Bryan Haynes  
David Healey  
John M. Hintz  
Gary Hoffman  
James Holmes  
Leeanna Izuel  
Robert Jarvis  
Jay Johnson  
Mike Jones  
Kevin Kudlac  
Lance Lee  
David Maland  
Kirk Mathis  
Mike C. Miller  
Nicole Mitchell  
Charles "Chip" Molster

Mark C. Nelson  
Xuan-Thao Nguyen  
Hubert Oxford  
Brian H. Pandya  
Michael Pegues  
Larry Phillips  
John Pickett  
Alan Ratliff  
Mark Reiter  
Erick Robinson  
Mark Smith  
Michael C. Smith  
Arnold Spencer  
David Stein  
E. Glenn Thames, Jr.  
Andy Tindel  
Michael Truncale  
Daniel E. Venglarik  
Claude E. Welch  
Trey Yarbrough

## THURSDAY EVENING RECEPTION

Don't miss the **John H. Hannah, Jr. Award for Public Service**. Music and dancing will be provided by *Emerald City*. Smart Casual Attire.

## CONFERENCE

October 24-26, 2012 • Plano Marriott Legacy Town Center  
7120 Dallas Parkway, Plano, Texas 75024

## REGISTRATION

Register today by fax or email.

Mail attached registration form **and your check** payable to:

**Eastern District of Texas Bar Association**  
c/o Siebman, Burg, Phillips & Smith, LLP  
300 North Travis, Sherman, TX 75090

Email or fax courtesy copy of registration form to  
edtxas@siebman.com or FAX 903.870.0066

## DEADLINE FOR REGISTRATION

is September 28, 2012.

Additional fee of \$100 applies after September 28.

## REGISTRATION FEE INCLUDES

Opening reception, private showing of "Bernie" at Angelika,  
opening breakfast, lunch, refreshment breaks,  
cocktail reception, dinner & dancing  
on Thursday, buffet breakfast & lunch on Friday & CLE.  
Register your spouse or significant other for social activities  
& Thursday evening dinner for \$100.

## SPONSORS

The Bar Association is seeking conference sponsors.  
If interested, contact Elizabeth Black Berry at  
(713) 546-5055 or [elizabeth.berry@weil.com](mailto:elizabeth.berry@weil.com)

## CONTINUING EDUCATION

This course is pending approval for Minimum Continuing  
Legal Education credit by the State Bar of Texas Committee  
on MCLE in the amount of 13.0 Participatory credit  
hours of which 2.5 credit hours will apply to legal ethics.  
This course is also pending approval by the Texas Board  
of Legal Specialization for certification and recertification  
continuing legal education requirements for attorneys  
and legal assistants in the following specialty field:  
Civil Trial Law 13.0 approved hours.  
Criminal Law 13.0 approved hours.

## HOTEL RESERVATIONS

Through October 1, 2012 conference rate applies at  
\$159 + tax per night with complimentary self-parking.  
Please make reservations by calling Marriott Reservations  
at (888) 236- 2427 or directly with the hotel (972) 473-6444  
and **reference** the Eastern District of Texas Bar Association.



**16th Annual Eastern District Bench Bar Conference**  
**Wednesday, Thursday and Friday, October 24, 25 and 26, 2012**

**REGISTRATION FORM**

Name: \_\_\_\_\_

Firm: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Telephone: \_\_\_\_\_

Fax: \_\_\_\_\_

E-mail: \_\_\_\_\_

My guest will attend the Thursday evening reception and dinner? Yes \_\_\_\_\_ No \_\_\_\_\_

Guest's name \_\_\_\_\_ *(\$100 Fee Applies)*

**E.D. TEX. BAR ASSOCIATION RENEWAL AND CONFERENCE REGISTRATION FEES:**

\_\_\_\_\_ I wish to register for the conference **(\$695)**  
*(ED Texas CJA Panel Members & Government Lawyers (\$495))* \_\_\_\_\_

\_\_\_\_\_ I wish to participate in the Golf Tournament **(\$100)** \_\_\_\_\_

\_\_\_\_\_ My Spouse/Significant Other Registration for social activities **(\$100)**  
*(includes Receptions, "Bernie", Dinner, After Dinner Cocktails & Dancing)* \_\_\_\_\_

\_\_\_\_\_ I wish to renew my membership/join the ED Texas Bar Association **(\$75.00)** \_\_\_\_\_

\_\_\_\_\_ Register **after September 28, 2012**; late registration will be an additional **(\$100.00)**  
**(on a space available basis.)** \_\_\_\_\_

**TOTAL:** \_\_\_\_\_

*RESPONSE REQUESTED BY SEPTEMBER 28, 2012*  
*AFTERWARDS, THERE WILL BE AN ADDITIONAL FEE OF \$100*  
*NO REFUNDS AFTER OCTOBER 1, 2012*

**MAIL THIS REGISTRATION FORM AND YOUR CHECK PAYABLE TO:**  
**EASTERN DISTRICT OF TEXAS BAR ASSOCIATION**

**c/o Siebman, Burg, Phillips & Smith, LLP**  
**300 North Travis, Sherman, TX 75090**

**EMAIL OR FAX COURTESY COPY OF REGISTRATION FORM TO**

[edtexas@siebman.com](mailto:edtexas@siebman.com) or FAX 903.870.0066

*To make hotel reservations call the Marriott Dallas/Plano Marriott at Legacy Town Center at (888) 236- 2427 or (972) 473-6444 and reference the Eastern District of Texas Bar Association 2012 Annual Conference or log on to <http://www.marriott.com/hotels/travel/dalpt?groupCode=easeasa&app=resvlink&fromDate=10/24/12&toDate=10/26/12>. Conference room rate is available until **October 1, 2012 at 5 p.m. at \$159.99/ night** for single or double + taxes.*