

Eastern District of Texas 2018 Bench Bar Conference

*Jointly with The Center for
American and International Law*

October 17-19, 2018

**Plano Marriott
Legacy Town
Center**
7121 Bishop Rd.
Plano, TX 75024
800.228.9290
972.473.6444

A map of the state of Texas is shown with a blue diagonal hatched pattern. A red-shaded area on the right side of the map highlights several cities. The names of these cities are listed to the left of the red area, each followed by a small black dot.

SHERMAN • TEXARKANA •
PLANO •
MARSHALL •
TYLER •
LUFKIN •
BEAUMONT •

"The Right Side of Texas"

BENCH BAR PROGRAM

Wednesday, October 17, 2018

10:00 AM **Conference Shoot Out at the Frisco Gun Club**
6565 Eldorado Pkwy, Frisco, TX 75033,
214.618.4144
Shootout Chairman- Darby Doan, Haltom & Doan

Sponsor: Haltom & Doan

10:00 AM **Gleneagles Golf Tournament**
Gleneagles Country Club
5401 W. Park Blvd., Plano, TX 75093,
972-867-6666
Golf Chairman- Charles "Chip" Molster, Law
Offices of Charles B. Molster, III, PLLC

Sponsor: Law Offices of Charles B. Molster, III, PLLC

12:30 PM **Women Lawyers of the Eastern District (WLED) Lunch (Members Only)**
Chaddick's @ Plano Marriott
Hope Shimabuku, Regional Director, USPTO (Moderator); Judge Marcia Crone, EDTX; Judge Brenda Rhoades, TXEB; Judge Nicole Mitchell, EDTX; Judge Christine Nowak, EDTX; Alice King, Career Law Clerk to Judge Kimberly Priest Johnson, EDTX

EDTX Bench Bar Conference CLE Begins/Concurrent Tracks with CAIL ILT.

Conference Session Chair - Gita Srivastava, Gigavation Incorporated

2:00 PM **Managing Parallel District Court and PTAB Proceedings - ILT Part 1.**
Trends & Lessons Learned in the Trenches On Stays, Intermingled Discovery & Claim Construction.
Trinity Ballroom I/II
Phillip Philbin, Haynes & Boone (Panel Coordinator); Judge Nicole Mitchell, EDTX; Lead PTAB Judge Georgianna Braden, USPTO; Leisa Peschel, Jackson Walker; Joe Beauchamp, Jones Day; Jeremy Welch, Schlumberger, Ltd.

2:45 PM **Managing Parallel District Court and PTAB Proceedings - ILT Part 2.**
Trends & Lessons Learned in the Trenches on Estoppel, Prosecution Disclaimer, and Impact of Federal Circuit Review.
Gabrielle LaHatte, Latham & Watkins (Panel Coordinator); Judge Robert "Trey" Schroeder, EDTX; Acting Chief Administrative Patent Judge, Scott Boalick, PTAB; Judge Cathy Bencivengo, SDCA; Kenneth Adamo, Kirkland & Ellis; Theodore Baroody, Carstens & Cahoon, LLP; Harry "Gil" Gillam, Gillam & Smith; Brett Govett, Norton Rose Fulbright

3:30 PM **Break**

3:45 PM **Best Practices for Managing Parallel District Court and PTAB Proceedings as Developed By Sedona WG10.**
Eley Thompson, Foley & Lardner LLP (Panel Coordinator); Chief Judge Barbara Lynn, NDTX; Lead PTAB Judge Stacey White, USPTO; Michael Morin, Latham Watkins; Roshan Mansinghani, Senior Patent Counsel, Unified Patents Inc.

4:30 PM **Net. Net. Net. Has Patent Reform and the AIA Fixed A Mess or Made A Mess? What's It Done to Patent Values and Innovation?**
Bruce Sostek, Thompson & Knight (Panel Coordinator); Judge Lee Yeakel, WDTX; Senior Judge Ron Clark, EDTX; Leonard Davis, EDTX Retired, Fish & Richardson; Peter Chen, Covington & Burling, LLP; Douglas Ellis, ASQ Consulting; Otto Licks, Licks Attorneys

5:15 PM **What Are In-House Counsel Looking for in Lead Trial Counsel? In the Age of Diminishing Trials, What Should Women Lawyers Do to Obtain Lead Counsel Status?**
Rosalyn Mitchell, Managing Counsel, Class Action & Patent Litigation, Toyota Motor North America (Panel Coordinator); Judge Marcia Crone, EDTX; Judge Nicole Mitchell, EDTX; Judge Christine Nowak, EDTX; Jennifer Doan, Haltom & Doan; Sarah Decker, Director of Litigation and Dispute Resolution, McAfee; Sarah Kalemeris, Corporate Counsel - Patents, T-Mobile; Shonn Brown, Lynn Pinker Cox Hurst

6:00 PM **EARLY BIRD CLE ENDS (3.75/.25 CLE)**

*Texas MLCE hours listed below session time. Second number, if listed, is Ethics/Professional Responsibility.

6:00 PM **Opening Bench Bar Reception**

Sponsor: StoneTurn Group

7:15 PM **Dinner on Your Own**

7:00 PM **Former Law Clerks Dinner (Members Only)
Judges/Bar Leaders Dinner (By Separate
Invitation)**

10:00 PM **Opening Reception Resumes in the
Presidential Suite for Night Caps Until
Midnight
Room 621**

Thursday, October 18, 2018

7:00 AM **Local Rules Committee (Invited)
San Jacinto Room**

7:15 AM-
8:15 AM **All Conference Texas Style Hot
Breakfast**

Sponsors: Dovel & Luner, LLP; Findlay Craft

8:20 AM **Opening Remarks from Chief Judge
Rodney Gilstrap, EDTX; Eastern District of
Texas Bar President Geoffrey Culbertson,
Patton, Tidwell & Culbertson & Bench Bar
Conference Chairman Clyde Siebman,
Siebman Forrest Burg & Smith, LLP
Trinity Ballroom I/II**

Conference Session Chair - Janis Clements,
Greenberg Traurig

8:30 AM **Patent Damages Hot Topics.**
(.75) Alan Ratliff, JD, CPA, CFF, CGMA, CPVA,
StoneTurn (Panel Coordinator); Chief Judge
Rodney Gilstrap, EDTX; Judge John Love,
EDTX; Jeffrey Bragalone, Bragalone Conroy,
P.C.; Jeannie Heffernan, Kirkland & Ellis;
Glenn Thames, Potter Minton; Max Ciccarelli,
Thompson & Knight

9:15 AM **Contemplations About the State of Patent
Litigation. Views from the Federal Circuit.**
(.75) George Pappas, Covington & Burling (Panel
Coordinator); Chief Judge Sharon Prost, CAFC;
Judge Kathleen O'Malley, CAFC; Judge
Richard Taranto, CAFC

10:00 AM **Break**

10:15 AM **General Data Protection Regulation
(.50) "GDPR". Seeking or Supplying Information
to or from the EU or EEA After May 25,
2018. Getting Up to Speed on the New
Rules.**

Melissa Smith, Gillam & Smith (Panel
Coordinator); Rebecca Perry, Director of
Professional Services, Jordan Lawrence LLC;
Daniel Nazar, Director & Senior Attorney -
Data Privacy, American Airlines; David
Killough, Assistant General Counsel,
Microsoft Corporation; Jay Johnson, Jones
Day

10:45 AM **Supreme Court Update - From Patents &
(.75) Beyond, What's Up at SCOTUS.**
Geoffrey Culbertson, Patton, Tidwell &
Culbertson Introducing Tom Goldstein
(SCOTUSblog)

11:30 AM **Venue by the Numbers. Is East Texas the
New Delaware?**
David O'Toole, EDTX District Clerk; Darryl
Towell, Docket Navigator

11:50 AM **Venue Post TC Heartland: Transfers Out,
(.75) Transfers In & No Place to Hide from
Venue Related Expense and Delay -- Is
This the Right Answer for Protecting IP?**
Alan Fisch, Fisch Sigler LLP (Panel
Coordinator); Natalie Bennett, Morgan, Lewis
& Bockius LLP; Evelyn Chen, Senior Counsel,
Ericsson; Shirley Webster, Ocean Tomo;
Randall Garteiser, Garteiser Honea; Elvin
Smith, Law Offices of Elvin E. Smith, PLLC;
Sharon Israel, Shook, Hardy & Bacon L.L.P.

12:35 PM **Buffet Lunch**
(.75/.50) "Twelve Angry Youts Kill a Mockingbird,
Tweet Tweet" Senior Judge Joseph F.
Anderson, Jr. (DSC) Lessons from
"My Cousin Vinny". Introduction by Richard
"Rocky" Schwartz, Whitaker, Chalk, Swindle
& Schwartz

Sponsors: Duff & Phelps; Greenburg Traurig,
LLP

Conference Session Chair - Walter Lackey,
Findlay Craft

*Texas MLCE hours listed below session time. Second number,
if listed, is Ethics/Professional Responsibility.

- 1:50 PM (.75) District Court Litigation Post - SAS. Is It a Game Changer?**
 Brian Pandya, Wiley Rein (Panel Coordinator); Judge Robert "Trey" Schroeder, EDTX; Judge Roy Payne, EDTX; Matt Greinert, Senior Patent Litigation Counsel, Mylan; Carlo Cotrone, IP Counsel, GE Baker Hughes; Barry Bumgardner, Nelson Bumgardner & Albritton; Bryan Sinclair, Senior Director, IP Litigation, Cisco
- Non-Patent Option:**
- (.75/.25) There is a New United States Attorney in Town. Meet Joseph D. Brown and His Leadership Team for a Roundtable Discussion of What to Expect.**
San Jacinto Room
 James Whalen, Whalen Law Office (Panel Coordinator); Joseph D. Brown, United States Attorney, EDTX; Heather Rattan, First Assistant United States Attorney; Matt Quinn, Criminal Chief; Josh Russ, Civil Chief; Bradley Visosky, Appellate Chief; Charlotte Russo, Administrative Officer
- 2:30 PM (.75) Extra-territorial Perspectives. From Remedies in US Courts for Acts Occuring in Whole or in Part Outside the US to Obtaining Discovery from Abroad.**
 Matt Acosta, Jackson Walker (Panel Coordinator); Christopher Kennerly, Paul Hastings; Ivan Wang, Senior Counsel, TSMC; Ranganath Sudarshan, Covington & Burling LLP; Otto Licks, Licks Attorneys; Kenneth Korea, SVP/Head of Silicon Valley IP Office, US IP Center, Samsung
- Non-Patent Option:**
- (.75/.25) Qui Tam. The Growing Role of "Private Attorneys General" in EDTX Under the Federal False Claims Act. How Does the Qui Tam Statute Work?**
San Jacinto Room
 Joel Androphy, Berg & Androphy (Panel Coordinator); Judge Caroline Craven, EDTX; Josh Russ, Civil Chief, US Attorney's Office, EDTX; Sam Boyd, Boyd & Associates; Claire Henry, Ward, Smith & Hill; Jennifer Truelove, McKool Smith; Heather O'Shea, Jones Day; Bradley Visosky, AUSA, EDTX
- 3:15 PM Break**
- 3:30 PM (.75/.25) Trying Complicated or Technical Cases to East Texas Juries. The Do's, The Don'ts and The Maybes. Unpacking the Race to Credibility.**
 Elizabeth "Betty" DeRieux, Capshaw DeRieux (Panel Coordinator); Chief Judge Rodney Gilstrap, EDTX; Senior Judge Richard Schell, EDTX; Judge Amos Mazzant, EDTX; Judge Robert "Trey" Schroeder, EDTX; Henry Bunsow, Bunsow De Mory; Wesley Hill, Ward, Smith & Hill, PLLC
- Non-Patent Option:**
- (.75/.25) Defining and Proving "False" Under the Federal False Claims Act. The Role of Statistical Sampling and Extrapolation. Where Are the Boundary Lines After Life Care Centers and Escobar?**
San Jacinto Room
 Donean Surratt, Orgain, Bell & Tucker, LLP (Panel Coordinator); Judge Harry S. Mattice, Jr., EDTN; James B. Helmer, Jr., Helmer, Martins, Rice & Popham Co., LPA; Jeff Layne, Reed Smith; James Gillingham, EDTX AUSA
- 4:15 PM (.75) Hatch Waxman. A Lightening Round on Hot Topics in the Drug Wars.**
 Stephanie Barnes, Siebman Forrest Burg & Smith, LLP (Panel Coordinator); Judge Roy Payne, EDTX; Barry Golob, Cozen O'Connor; William E. "Bo" Davis, The Davis Firm; Gary Hood, Polsinelli PC; Thomas Meloro, Willkie Farr & Gallagher
- Non-Patent Option:**
- (.75/.25) Texas Eastern – From Patents and Trade Secrets to Qui Tam False Claim Litigation and Federal Criminal Prosecutions, Why Do Those Seeking Relief Choose to Seek it Here? A Strategic Look at the Local Battlefield from the Plaintiffs' and Defendants' Perspectives.**
San Jacinto Room
 Clyde Siebman, Siebman Forrest Burg & Smith, LLP (Panel Coordinator); Judge Amos Mazzant, EDTX; Joesph D. Brown, United States Attorney, EDTX; Douglas Keene, Keene Consulting; Robert Kantner, Jones Day; Eric Albritton, Nelson, Bumgardner, Albritton

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5:00 PM **Conference Recesses (7.25 CLE Hours for the Day)**

(The Inaugural Texas Reception and Dinner are an additional activity for 2018 conference; See Registration page for fee.)

5:40 PM **Buses Load for Inaugural Texas Reception and Dinner**

6:00 PM **Buses Depart for Inaugural Texas Reception and Dinner to be held at AT&T Cowboys Stadium, 1 AT&T Way, Arlington, Texas, Lot 7, Entry F**
(SHARP)

6:45 PM **Inaugural Texas Reception in Honor of the Judiciary, USPTO Director and the 7th Amendment to the United States Constitution**

7:45 PM **Inaugural Texas Dinner in Honor of the Judiciary and the 7th Amendment to the United States Constitution**
Introductory Remarks by Scott Murray, Master of Ceremonies – Emmy Award-Winning News Anchor, Broadcast Journalist

Welcoming Remarks to Federal and State Judges and Other Dignitaries by Jerry Jones, Owner/President/General Manager of the Dallas Cowboys-America's Team

Opening Speaker

S.C. Gwynne, Author of *The Perfect Pass, Rebel Yell* and *Empire of the Summer Moon*. What Lawyers & Judges Should Take-Away from Hal Mumme, Mike Leach, Stonewall Jackson and the Comanche Indians. Focusing on *The Perfect Pass*, Gwynne tells a riveting story of innovation and how rejection of conventional wisdom and reinvention can transform outcomes and change the course of history.

Keynote Address

The Honorable Andrei Iancu, Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office. The future of innovation and the law that protects it.

9:45 PM **Inaugural Toast in Honor of the 7th Amendment to the United States Constitution**

10:00 PM **Buses Load for Return to Marriott Legacy Town Center, Plano**

10:30 PM **Presidential Suite Open Until Midnight
Thirty
Room 621**

Friday, October 19, 2018

7:45 AM **All Conference Breakfast
Trinity Ballroom I/II**

**USPTO Director, President's & Chief Judge's Breakfast (By Separate Invitation)
San Jacinto Room**

Sponsors: ASQ Consulting; Baker Botts L.L.P.

Conference Session Chair - Adam Allgood,
Morgan Lewis Bockius



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8:45 AM
(.75) **Artificial Intelligence: Implications on the Practice of Law and the Novel Policy, Legal and Ethical Issues Raised.**

James Brookshire, Exec. Director, Federal Circuit Bar Association Introducing Michelle Lee, Former Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office. Currently the Herman Phleger Visiting Professor at Law at Stanford Law School, where she teaches a joint engineering and law course on disruptive technologies (artificial intelligence and driverless cars) and their impact on laws and regulations.

Interactive Audience Discussion – Facilitated By Alan Fisch, Fisch Sigler LLP
Non-Patent Option:

(.75) **“Send Lawyers, Guns and Money, the #\$\$@%* has Hit the Fan !” What Should You Do When You Learn DOJ, OIG or HHS Is Investigating Your Client?**

San Jacinto Room

Bradley Visosky, EDTX AUSA (Panel Coordinator); James Gillingham, EDTX AUSA; Chris Eason, EDTX AUSA; Matthew Orwig, Winston & Strawn; Roger Sanders, Sanders Motley Young & Gallardo; Sarah Wirsky, Wirsky Law Firm

9:30 AM
(1.0) **Local Rules, Local Patent Rules, Divisions & Judges of EDTX. From Case Management Conferences and Discovery to Voir Dire and Jurors Who Sometimes Ask Questions, It's Not as Homogeneous as You Might Think. But Fairness and Credibility Counts Everywhere.**

Michael Smith, Siebman Forrest Burg & Smith, LLP; Alex McNicholas, EDTX Career Law Clerk (Panel Co-Coordinator); Boone Baxter, Heim, Payne & Chorush, LLP (Former Law Clerk to Judge Schroeder & Judge Davis – Texarkana/Tyler Division); Elizabeth Forrest, Siebman Forrest Burg & Smith, LLP (Former Law Clerk to Judge Mazzant - Sherman/Plano Division); Elizabeth Chiaviello (Former Law Clerk to Judge Schroeder & Judge Mitchell - Tyler/Texarkana Divisions); Rudy Fink, McKool Smith (Former Law Clerk to Judge Gilstrap, Judge Payne & Judge Bryson - Marshall Division); Ben Elacqua, Fish & Richardson (Former Law Clerk to Judge Clark - Beaumont Division)

Non-Patent Option:

(1.0) **Trade Secret Protection from Both a Civil and Criminal Perspective. Effective Use and Defense of the Defend Trade Secrets Act & Computer Fraud and Abuse Act Including How Far Does One's Corporate Authorization Go and What Are the Consequences for Pushing the Limit?**

San Jacinto Room

Decker Cammack, Whitaker Chalk Swindle & Schwartz; Camelia Lopez, EDTX AUSA (Panel Co-Coordinator); Judge Shashi H. Kewalramani, CDCA; Micaela R. H. McMurrugh, Covington & Burling LLP; Gita Srivastava, Director for Gigavation; Charles Bundren, Wm. Charles Bundren & Associates

10:30 AM **Break**



10:45 AM **Biased - Me? A Discussion of the Science of Decision Making & Strategies for Recognizing & Removing Bias. Yours & Theirs.**
(.75/.75)
Jennifer Ainsworth, Wilson, Robertson & Cornelius, PC Introducing Claude E. Ducloux, Law Offices of Claude E. Ducloux

Non-Patent Option:

(.75) **Corporate Cyber Threats: Working with Law Enforcement San Jacinto Room**
Camelia Lopez, Cybercrime and Intellectual Property Coordinator for the USAO-EDTX & Attorney in Charge- Plano; SSA Richard Murray, FBI-Dallas, Cyber Division with Perspectives from Corporate Counsel and CISO

11:30 AM **Observations from the Big Easy. Those Events, Circumstances and Precedents That Have Most Impacted Justice Over Varied Careers by Those Who Lived It.**
(.75)
Chief Judge Rodney Gilstrap, EDTX (Panel Coordinator); Chief Judge Carl Stewart, 5th Cir.; Judge Catharina Haynes, 5th Cir.

12:15 PM **Lunch Buffet**

Sponsor: McDermott Will & Emery LLP

Conference Session Chair - Amanda Abraham, Roth Law Firm

12:30 PM **Local General Counsel/Chief IP Counsel Panel: Playing EDTX as a Home Game. From Local Economic Analysis to an Introduction of Companies That Call EDTX Home ... As Well As the Ethics of Solicitation and Some Issues Keeping In-House Counsel Awake at Night.**
(1.0/.50)
Brett Johnson, Winston and Strawn (Panel Coordinator); Kimble Scott, General Counsel, FedEx; Sandra Phillips Rogers, General Counsel, Toyota Motors North America, Inc.; John Buchanan, General Counsel, Comerica; Robert Earle, Vice-President for Patent Assertion and Enforcement, Ericsson; Steven Geizler, U.S. Chief Intellectual Property Litigation Counsel, Huawei

1:45 PM **Q's and A's of Trial Lawyers' Dual Masters: Judges and In-House Counsel. Interactive Segment in Which the Audience Asks Questions About Likes & Dislikes ... And A Few Unsolicited Observations.**
(.75)
Charles "Chip" Molster, Law Offices of Charles B. Molster, III, PLLC (Panel Coordinator); Judge Marcia Crone, EDTX; Senior Judge Thad Heartfield, EDTX; Judge Zack Hawthorn, EDTX; Judge Kimberly Priest Johnson, EDTX; Brian Gaffney, Assistant Vice President & Senior Legal Counsel, IP Litigation, AT&T; Andrew Mayo, Senior Litigation Counsel, ST Microelectronics

2:30 PM **Adjourn (5.0 CLE for the Day)**



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- Winston & Strawn, LLP
- Yarbrough Wilcox, PLLC

*Underwriter for Inaugural Texas Dinner in honor of the Judiciary and the 7th Amendment

22ND ANNUAL EASTERN DISTRICT OF TEXAS BENCH BAR CONFERENCE

Chief Judge Rodney Gilstrap • ED Texas Bar President Geoffrey Culbertson
Conference Chairman Clyde M. Siebman

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- Andy Tindel
- Jim Walker
- Shirley Webster
- Steve Williams
- Steven Wolens
- Trey Yarbrough

WEDNESDAY

Opening Reception

- Great food and drink followed by dinner on your own at beautiful Shops of Legacy Town Center.

THURSDAY

The Inaugural Texas Dinner in Honor of the Judiciary and the 7th Amendment. An Evening with USPTO Director Andrei Iancu & Best-Selling Author S.C. Gwynne on the field at AT&T Cowboy Stadium/Tunnel Entrance to Field

CONFERENCE

- October 17-19, 2018
- Plano Marriott Legacy Town Center
7121 Bishop Blvd., Plano, Texas 75024

REGISTRATION

- Register today by fax, email or online.
- Mail completed registration form and your check payable to:
CAIL, 5201 Democracy Drive, Plano, Texas 75024
- **REGISTRATION FORM: Email, Fax or Online**
Email to: mkramer@cailaw.org
Fax to: 972.244.3401
Online:
<https://www.cailaw.org/eventRegistration.html?e=2064>

DEADLINE FOR REGISTRATION

October 10, 2018

- Additional fee of \$100 applies after the deadline as long as space remains available.
- **NO REFUNDS AFTER SEPTEMBER 24, 2018**

SPONSORS

- The bar association is seeking sponsors for the conference and for selected conference events.
- If interested, email: edtxas@siebman.com for information.

CONTINUING LEGAL EDUCATION

- This program is seeking approval for Minimum Continuing Legal Education credit by the State Bar of Texas Committee on MCLE in the amount of approximately 16 participatory credit hours of which approximately 2.0 credit hours is being requested to apply to legal ethics.
- This course is also seeking approval by the Texas Board of Legal Specialization for certification and recertification in Civil Trial Law.
- A Uniform Certificate of Attendance will be provided to attorneys licensed outside of Texas.

HOTEL RESERVATIONS

- Through October 5, 2018 conference rate applies at \$199 + tax per night, until room block is filled, with complimentary self-parking.
- Please make reservations at 972.473.6444 or 800.228.9290 and reference the Eastern District of Texas Bar Association.

REGISTRATION FEE INCLUDES

- VIP Opening Reception, Full Buffet Hot Breakfasts, 2 Lunches
- Music, Refreshment Breaks, Entertainment, Networking Opportunities & Lots of CLE.

QUESTIONS?

Email: elizabethberry19@gmail.com or edtxas@siebman.com

