



DANA LIVINGSTON

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Dana Livingston is a partner in the Austin office of Alexander Dubose & Townsend. Her firm provides the full range of appellate services in both appellate and trial courts, including pre-litigation risk assessment and evaluation, litigation strategy and advocacy, as well as error preservation, motion practice, and jury charge preparation in the trial court.

Dana has a statewide appellate practice with particular expertise before the Fifth Circuit and the Supreme Court of Texas. Dana's experience in appellate advocacy and in strategy and support in high-stakes litigation covers a diverse range of litigation matters, including arbitration, banking, bankruptcy, complex commercial transactions, constitutional, employment, energy, environmental, ERISA, finance, insurance coverage, intellectual property, premises liability, product liability, and securities, and trademark.

Dana is a former Law Clerk for the United States Court of Appeals for the Fifth Circuit and a former Staff Attorney for the Supreme Court of Texas. Dana entered private practice with the Houston office of Vinson & Elkins LLP. Before becoming a partner with Alexander Dubose & Townsend, she managed a successful solo practice dedicated to appellate law.

Dana is the senior member of the Civil Appellate Examination Commission of the Texas Board of Legal Specialization. She was the chair of Austin Bar Association's Civil Appellate Law Section and an Adjunct Professor of Law at the University of Texas School of Law for many years where she taught Appellate Advocacy. She is Board Certified in Civil Appellate Law by the Texas Board of Legal Specialization.

Dana was recently selected by the American Bar Association to serve as National Editor of a multi-jurisdictional appellate practice publication published by the Council of Appellate Lawyers of the Judicial Division of the ABA. She is the author of the Fifth Circuit chapter of that book, and is a frequent speaker at CLE programs. Dana has been selected by *Texas Monthly* as a "Super Lawyer" in appellate practice, and she is listed in *The Best Lawyers in America* in appellate law.

BOARD CERTIFICATION:

Board Certified—Civil Appellate Law—Texas Board of Legal Specialization (1995–present)

COURT STAFF EXPERIENCE:

United States Court of Appeals for the Fifth Circuit, Law Clerk for Judge Jacques Wiener (1990–91)
Supreme Court of Texas, Staff Attorney for Justice Priscilla R. Owen (1996–98)

SELECTED PROFESSIONAL ACTIVITIES AND HONORS:

Civil Appellate Examination Commission, Texas Board of Legal Specialization, Member (2004–present)
ABA Council of Appellate Lawyers, National Editor of forthcoming book on appellate practice in every state and federal appellate court
Austin Bar Association Civil Appellate Law Section, Chair (2003–04)
The University of Texas School of Law, Adjunct Professor, Appellate Advocacy (2000–05, 2007)
State Bar of Texas Appellate Section, *The Appellate Advocate*, Associate Editor (2003–06)
State Bar of Texas, Pattern Jury Charge Committee, Member (2004–06)
Texas Super Lawyers (2003, 2004, 2005, 2006, 2007, 2008, 2009)
Best Lawyers in America, Appellate Law (2007, 2008, 2009)

EDUCATION:

The University of Texas School of Law, J.D. with Honors (1990)
Texas Law Review, Executive Editor; Outstanding Second-Year Member Award
The University of Texas at Austin, B.A. with High Honors, Philosophy & Economics (1987)

PUBLICATIONS & CLE PRESENTATIONS:

APPEALS ACROSS AMERICA: AN INSIDER'S GUIDE TO STATE AND FEDERAL APPELLATE COURTS (Dana Livingston ed., forthcoming 2010)

Dana Livingston, *The Insider's Guide to the Fifth Circuit*, in APPEALS ACROSS AMERICA: AN INSIDER'S GUIDE TO STATE AND FEDERAL APPELLATE COURTS (Dana Livingston ed., forthcoming 2010)

Federal Interlocutory Appeals and Mandamus, in STATE BAR OF TEX. PROF. DEV. PROG., FEDERAL COURT PRACTICE SEMINAR (2010) (speaker & author)

PUBLICATIONS & CLE PRESENTATIONS: (CONTINUED . . .)

- Competing Visions of the Role of an Appellate Court: Internal Struggle at the Fifth Circuit*, Houston Bar Association Appellate Section Luncheon (2009) (speaker)
- Preserving Error for Appeal*, Austin Bar Association, Ultimate Trial Notebook Seminar (2009) (panelist)
- Anatomy of an Appeal Part 2: Persuasion*, ABA/YLD Teleconference (2009) (co-presenter)
- Comparison of State and Federal Appellate Practice*, in STATE BAR OF TEX. PROF. DEV. PROG., APPELLATE BOOT CAMP (2009) (co-author)
- Federal Mandamus and Interlocutory Appeals*, in UNIV. TEX. 19TH ANNUAL CONFERENCE ON STATE AND FEDERAL APPEALS (2009) (speaker & author)
- Oral Argument: Anticipating and Handling the Tough Questions at the Supreme Court of Texas*, in UNIV. TEX. 18TH ANNUAL CONFERENCE ON STATE AND FEDERAL APPEALS (2008) (co-presenter)
- Fifth Circuit Ultimate Practice Guide: What Every State Court Practitioner Needs to Know About Practicing in the Fifth Circuit*, in FEDERAL BAR ASS'N (DALLAS CHAPTER) (2008) (author)
- A Comparison of State and Federal Appellate Practice*, in STATE BAR OF TEX. PROF. DEV. PROG., APPELLATE BOOT CAMP (2008) (co-author)
- How to Make Yourself Indispensable at Trial*, in STATE BAR OF TEX. PROF. DEV. PROGRAM, 20TH ANNUAL ADVANCED CIVIL APPELLATE PRACTICE COURSE (2006) (panelist)
- For the Record: Judicial Notice on Appeal*, in UNIV. OF TEX. 16TH ANNUAL CONF. ON STATE AND FEDERAL APPEALS (2006) (co-presenter & co-author)
- Insider's Guide to Fifth Circuit Internal Procedures*, in FEDERAL BAR ASS'N (DALLAS CHAPTER) (2006) (author)
- A Comparison of State and Federal Appellate Practice*, in STATE BAR OF TEX. PROF. DEV. PROG., APPELLATE BOOT CAMP (2006) (co-author)
- Fifth Circuit Clerk's Rules and Procedures You Should Know, But No One Ever Told You*, in UNIV. OF TEX. 15TH ANNUAL CONF. ON STATE AND FEDERAL APPEALS (2005) (co-presenter with Clerk of the Fifth Circuit, Fritz Fulbruge)
- Insider's Guide to Fifth Internal Procedures*, in UNIV. OF TEX. 15TH ANNUAL CONF. ON STATE AND FEDERAL APPEALS (2005) (author)
- Fifth Circuit Ultimate Practice Guide: What Every State-Court Practitioner Needs to Know About Practicing in the Fifth Circuit*, in STATE BAR OF TEX. PROF. DEV. PROG., APPELLATE BOOT CAMP (2005) (author)
- Jury Charge and Other Error Preservation Hot Topics*, in AUSTIN BAR ASSOCIATION ULTIMATE TRIAL NOTEBOOK SEMINAR (2005) (panelist)
- Fifth Circuit Internal Operating Procedures Beyond the I.O.P.s*, in STATE BAR OF TEX. PROF. DEV. PROGRAM, 18TH ANNUAL ADVANCED CIVIL APPELLATE PRACTICE COURSE (2004) (speaker & author)
- Interlocutory Appeals and Mandamus in Federal Court*, in UNIV. OF TEX. 14TH ANNUAL CONF. ON STATE AND FEDERAL APPEALS (2004) (speaker & author)
- Threshold Forum Issues*, in STATE BAR OF TEX. PROF. DEV. PROG., 26TH ANNUAL ADVANCED CIVIL TRIAL COURSE (2003) (speaker & co-author)
- The Supervening Decision Doctrine*, in UNIV. TEX., 13TH ANNUAL CONF. ON STATE AND FEDERAL APPEALS (2003) (speaker & author)
- Permissive Interlocutory Appeals in State Court*, in TRAVIS COUNTY BAR ASS'N BENCH-BAR CONF. (2003) (speaker & author)
- Interlocutory Appeals*, in TRAVIS COUNTY BAR ASS'N BENCH-BAR CONF. (2003) (speaker)
- United States Supreme Court Update*, APPELLATE ADVOC., Spring 2003, at 12 (co-author)
- Permissive Interlocutory Appeals in State Court*, in UNIV. TEX., 12TH ANNUAL CONF. ON STATE AND FEDERAL APPEALS (2002) (speaker & author)
- Briefing to the Intermediate Courts of Appeals: State and Federal*, in STATE BAR OF TEX. PROF. DEV. PROG., NUTS & BOLTS OF APPELLATE PRACTICE (2001) (speaker & author)
- Fifth Circuit Internal Operating Procedures Beyond the I.O.P.s*, in UNIV. TEX., 11TH ANNUAL CONF. ON STATE AND FEDERAL APPEALS (2001) (speaker & co-author)

PUBLICATIONS & CLE PRESENTATIONS: (CONTINUED...)

- Federal Interlocutory Appeals and Mandamus*, in UNIV. OF TEX. 10TH ANNUAL CONF. ON STATE AND FEDERAL APPEALS (2000) (speaker & author)
- Preparing and Preserving Error in the Jury Charge*, in UNIV. OF TEX. CONF. ON PROCEDURE AND EVIDENCE (2000) (speaker & author)
- Practice Before the Third Court of Appeals*, in TRAVIS COUNTY BAR ASS'N BENCH-BAR CONF. (2000) (panel moderator)
- What Not to Say in Oral Argument: A Video Presentation and Discussion*, in SOUTH TEX. COLLEGE OF LAW FEAR AND LOATHING ON APPEAL SEMINAR (1999) (video)
- Cases Pending Before the Supreme Court of Texas*, in TRAVIS COUNTY BAR ASS'N CIVIL APPELLATE SEMINAR (1999) (speaker & author)
- Nuts and Bolts of Fifth Circuit Practice*, in UNIV. OF TEX. 9TH ANNUAL CONF. ON STATE AND FEDERAL APPEALS (1999) (speaker & author)
- A Comparison of State and Federal Appellate Practice*, in UNIV. OF TEX. 8TH ANNUAL CONF. ON STATE AND FEDERAL APPEALS (1998) (co-author)
- Ten Things You Ought to Know About Practicing in the Fifth Circuit*, TCBA Civil Appellate Law Section Luncheon (1998) (speaker & author)
- Perfecting the Appeal and Appellate Motion Practice*, in STATE BAR OF TEX. PROF. DEV. PROG., APPELLATE PRACTICE INSTITUTE (1998) (speaker & author)
- Practice Before the Supreme Court of Texas*, in STATE BAR OF TEX. PROF. DEV. PROG., APPELLATE PRACTICE INSTITUTE (1998) (speaker & co-author)
- A Comparison of State and Federal Appellate Practice*, in STATE BAR OF TEX. PROF. DEV. PROG., APPELLATE PRACTICE INSTITUTE (1998) (speaker & co-author)
- Texas Supreme Court Update*, in STATE BAR OF TEX. PROF. DEV. PROG., 14TH ANNUAL LITIGATION UPDATE INSTITUTE (1998) (co-author)
- Interlocutory Remedies in State Court*, in UNIV. TEX. 21ST ANNUAL PAGE KEETON PRODUCTS LIABILITY AND PERSONAL INJURY LAW CONFERENCE (1997) (co-author)
- A Comparison of State and Federal Appellate Practice*, in SOUTH TEX. COLLEGE OF LAW CIVIL APPELLATE LAW COURSE FOR TRIAL LAWYERS (1997) (co-author)
- Fifth Circuit Update*, in STATE BAR OF TEX. PROF. DEV. PROGRAM, 10TH ANNUAL ADVANCED CIVIL APPELLATE PRACTICE COURSE (1996) (co-author)
- A Look Inside Chambers*, in 11TH ANNUAL FIFTH CIRCUIT APPELLATE PRACTICE AND ADVOCACY SEMINAR (1996) (speaker & co-author)
- Book Review, APPELLATE ADVOC., Sept. 1995, at 14 (reviewing HENRY D. GABRIEL & SIDNEY POWELL, FEDERAL APPELLATE PRACTICE GUIDE: FIFTH CIRCUIT (1994)) (co-author)
- The Court's Charge*, in STATE BAR OF TEX. PROF. DEV. PROG., 16TH & 15TH ANNUAL ADVANCED CIVIL TRIAL COURSE (1993 & 1992) (co-author)
- Jury Charge in State and Federal Court*, in STATE BAR OF TEX. PROF. DEV. PROG., 9TH ANNUAL ADVANCED PERSONAL INJURY LAW COURSE (1993) (co-author)

PROFESSIONAL ACTIVITIES

- Texas Board of Legal Specialization,
Examination Commission, Civil Appellate Law, Member (2004-present)
- American Bar Association, Judicial Division, Appellate Judges Conference, Council of Appellate Lawyers
Publications Committee (Editor-in-Chief of forthcoming nationwide appellate guide) (2008-present)
Rules Committee, Member (2008-present)
- Austin Bar Association (formerly, Travis County Bar Association):
Appellate Practice Seminar, Program Chair (2000)
Austin Lawyer, Editorial Board (1999-2003)
Civil Appellate Law Section, Immediate Past Chair (2004-05); Chair (2003-04); Chair-Elect (2002-03);
Secretary/Treasurer (2001-02); Council Member (1999-2001)
Board of Directors (2003-04)
Judicial Affairs Committee, Co-chair (1998-99), Member (1999-2007)
Publications Committee, Co-Chair (1999-2003)

PROFESSIONAL ACTIVITIES (CONTINUED . . .)

Austin Young Lawyers Association:

Treasurer (2002-03); Secretary (2001-02); Director (2000-01)
Austin Lawyer, Editor of AYLA Section (1999-2003)
Judicial Affairs Committee, Co-Chair (1998-2003)
Nominated for Outstanding Young Lawyer of Austin (2000)
Publications Committee, Co-Chair (1999-2003)
Supreme Team Committee, Co-Chair (1998-99)
VoTexas Committee, Member (1998-99)

State Bar of Texas

Appellate Practice & Advocacy Section
Section Member (1991-present)
Appellate Advocate, Associate Editor (1996-97, 2003-06)
Electronic Publications Committee, Member (1996-97)
Annual Meeting Planning Committee, Member (2003)
Pattern Jury Charge Committee,
General Negligence and Intentional Personal Torts, Member (2004-06)
Plain Language Committee, TYLA Liaison (1994-95)
Texas Bar Foundation, Fellow (1995-present)
Texas Bar Journal, Editorial Board (1995-98)
Texas Bar Journal Committee, Member (1995-98)

Texas Board of Legal Specialization,
Civil Appellate Examination Commission, Member (2004-present)

Texas Young Lawyers Association

Liaison to the State Bar Plain Language Committee (1994-95)
TYLA Section of the *Texas Bar Journal* Committee, Co-Chair (1994-95)
Vice Chair (1995-96)

Houston Bar Association:

The Houston Lawyer Committee (Bar Journal of the Houston Bar Association),
Member (1994-96)
The Houston Lawyer, Editorial Board (1994-96)

Houston Young Lawyers Association:

Director (elected to 2 terms) (1995-96)
Pocket Parts Committee (newsletter), Chair and Editor-in-Chief (1995-96), Member and Associate Editor (1994-95)
Membership Committee, Vice-Chair (1994-95), Member (1993-96)
Membership Diversity Drive Committee, Member (1995-96)
Long-Range Planning Committee, Member (1995-96)

The University of Texas School of Law:

Adjunct Professor, Appellate Advocacy (2000-present)

University of Texas Annual Conference on State and Federal Appeals:

Planning Committee Member (2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009),
Presiding Officer (2003, 2005-2007, 2010)