



Setting Goals

Laura Gibson gave her parting remarks as president of the State Bar of Texas, welcoming Cindy V. Tisdale, the third in a historic trio of consecutive women to lead the bar. Gibson, together with Greg Sampson, helped create a CLE on succession planning, designated June 21 as Designate a Custodian Day, and was instrumental in promoting videos on suicide prevention and educating lawyers on the grievance process. She thanked her husband, Bill, for help on a recent column in the *Texas Bar Journal* and for sacrificing vacation time to give her time to handle State Bar duties. Gibson also thanked her late father, David, who was her inspiration to become an attorney. “Even though I never worked for my dad, he taught me that my word is my bond,” she said.

Tisdale was sworn into office by Supreme Court of Texas Senior Justice Debra Lehrmann, who described her as hardworking and intelligent, and thanked her for her dedicated service to the State Bar. Tisdale said she is proud to be the 143rd president and the ninth woman president, and she acknowledged past Presidents Gibson and Sylvia Borunda Firth, President-elect Steve Benesh, and State Bar Board of Directors Chair Kennon Lily Wooten. She also thanked her kids, who encouraged her to run for president, and her firm, Goranson Bain Ausley, for doing the same, knowing her leadership at the bar would take her away from billable hours. Tisdale named her goals for the new bar year: (1) Exploring establishing a vacation letter portal available to all courts and counsel; (2) Encouraging civility among opposing counsel; and (3) Promoting lawyer well-being and encouraging more lawyers to take advantage of Texas Lawyers’ Assistance Program services. She also announced the formation of a workgroup to focus on AI and how it impacts the legal profession.



THE SCENE Clockwise from top: State Bar of Texas President Cindy Tisdale at the General Session Luncheon and guests at the President’s Party. Photos by Marc Swendner

THE BUSINESS OF WRESTLING

Gwendolyn Seale, of Mike Tolleson and Associates in Austin, shared the realities of the wrestling industry regarding the contracts of wrestlers at a session titled “An Introduction to the Professional Wrestling Business and Wrestling Contracts.” Seale spoke about the nuances that go into the contracts with wrestlers, such as IP rights with stage names, merchandise rights, services, appearances, and performances, among other things. She said sometimes talent can be afraid to initiate pushback on the terms of the contract. “People are, of course, going to be nervous about pushing back on contract terms. They’re not going to have managers and agents and lawyers like you see in any other entertainment sector.” And sometimes, she said, you also just have the problem where there’s just no bargaining power.



KEYNOTE SPEAKER Chet Garner during the General Session Luncheon. Photo by Marc Swendner

A Love for Texas

Chet Garner, the host of PBS travel series *The Daytripper*, was this year's General Session Luncheon keynote speaker. Garner, a graduate of Baylor Law School and former attorney, said the tying bind between him and the crowd of lawyers was a love for Texas. While practicing law, he had the itch to travel but didn't have the time to go international while sitting at the "bottom of the totem pole," he said. Garner instead decided to explore his own backyard, visiting everywhere from the tourist traps to the most obscure stretches of the Lone Star State. When he told his law firm co-workers about his trips, he realized there were "gaps in information" in what they knew about the very place they called home. Fourteen seasons and several Lone Star Emmys later, Garner now uses the show to close the gap for a national audience. He used his time at the luncheon quizzing the audience on Texas trivia and telling stories about the places he's seen and the people he's met, such as legendary Snow's BBQ pitmaster Tootsie Tomanetz. "As attorneys, we carry the mantle of storytelling," Garner said. The lawyers in the audience, he later said, are guiding the next generation on what it means to be a Texan.

Plane Crashes, Comment Sections, and Case Prep

Take one look at a comment section on any YouTube video or Reddit post and discourse will run wild with detailed theories on the who, what, when, where, why, and how. This especially rings true with aviation accidents posted online. At a presentation titled "When Your Aviation Case Goes Viral: The Rise of YouTube 'Investigators,'" Dallas-based aviation litigator and Aviation Law Section Immediate Past Chair Bryan S. David broke down a list of common sources of flight information people use to dish on accidents. David cautioned that some people can be opinionated and aggressive in placing blame. From a legal standpoint, agencies like the National Transportation Safety Board can limit who is and isn't authorized to speak on an accident—something to consider if a client decides to shoot off in the comment section of a downed Cessna on YouTube. This could be fertile ground for slander, he said. But it can also be fertile grounds for voir dire preparation. David said to gather data, read comments, and use them as a focus group. This can inform a supplemental jury questionnaire. Comment sections, he said, can be cited from YouTube and Reddit so jurors can understand the reach of their discussion.

AI Art: Where's the Harm?

AI's emergence in the art world in the early 2020s likely triggered a redefining of copyright infringement and intellectual property. With just a few keyword prompts, generative tools can put together works out of images scraped from the internet of non-consenting artists. While that description alone should be a "gotcha" for those who see AI art as theft, the reality of ownership is cloudy. Proponents of AI-prompted art point to fair use doctrine to defend use of source material posted online. Whereas original works of art are utilized in diffusion, or AI learning, the dataset of these images is typically obscured while an AI model uses prompts to fill in the rest of the data, resulting in a nearly identical image. In answering whether this constitutes copyright infringement, Jones Day intellectual property attorney Hilda Galvan said, "The difficulty here is that the data is based on open-source code." In her presentation titled "IP Considerations in Artificial Intelligence," Galvan led a primer on recent and current cases to keep an eye on as courts give early insights into emerging legal precedent. For the curious, see *Authors Guild v. Google, Inc.*; *Getty Images (US), Inc. v. Stability AI, Inc.*; and *Doe 1 et al v. GitHub, Inc. et al.*

A FOCUS ON FOREIGN CLIENTS INVESTING IN THE U.S.

Edward M. Lebow, counsel to Haynes and Boone in Washington, D.C., outlined the functions and responsibilities of, as well as pertinent issues currently facing, the Committee on Foreign Investment in the United States, or CFIUS, during a session titled "CFIUS: Advising Foreign Clients on U.S. Investments and National Security Review." Lebow discussed CFIUS' origins in the 1980s, when it primarily focused on Japan, how its focus shifted to the Middle East following 9/11, and its present focus on Chinese investments in U.S. business. "Everyone is worried that the Chinese are really smart, and they're coming in with money to buy into new U.S. businesses early on to get access to their technology as it develops," he said. "Kind of like a national venture capital operation." He noted Congress' 2018 passing of the Foreign Investment Risk Review Modernization Act, which expanded CFIUS' jurisdiction to examine investments in companies that produce, design, test, manufacture, fabricate, or develop a so-called critical technology, or provide data or infrastructure.



HOST AND KEYNOTE SPEAKER Rocky Dhir and William P. Barr. Photo by Marc Swendner

WRITING A MEMOIR

Former U.S. Attorney General William P. Barr addressed attendees during the Bar Leaders Recognition Luncheon, fielding interview-style questions from Dallas attorney and *State Bar of Texas Podcast* host Rocky Dhir. Barr, the 77th and 85th attorney general during the Reagan and Trump administrations respectively, discussed his views on an array of political issues and recounted his experiences and ideas from his memoir titled *One Damn Thing After Another: Memoirs of an Attorney General*. “Someone who was a mentor to me over the years and for whom I had high respect kept on arguing with me that I should write a memoir. I had nothing better to do at the time. So, I wrote a chapter about growing up, during my youth, and I sort of had fun doing it, and said, ‘OK, I’ll do this.’ So I signed the contract, and after that it was work,” Barr said when asked about his motivation to begin writing his memoir in a sort of retirement, prior to joining the Trump administration. Barr said he was content for a time. But as he once again considered federal office, in part influenced by former U.S. Secretary of Defense Robert Gates, Barr said he recognized what he called a “constitutional crisis” looming following the 2016 election. “The institutions that I cared about—the Department of Justice and the FBI—were being battered from all sides and had been drawn into this political maelstrom,” he said. “I felt because I wasn’t looking for something in the future, I wasn’t looking for a job, I could afford to do what I thought was right—I might be in a good position to help the administration stabilize and help the Department of Justice stabilize.”

Why Are We Losing Women? Measuring and Shifting the Paradigm

At this session, which was broken up into four subtopics, past State Bar President Sylvia Borunda Firth moderated a lively discussion focused on women in the legal profession. Panelists Hilda Galvan, a Dallas-based trial lawyer with Jones Day; Alicia Freeman, a clinical professional counselor for the Texas Lawyers’ Assistance Program; and Ruthie White, a partner in Spencer Fane in Houston, talked about their own experiences as lawyers, mentees, and mentors—and what they are seeing in the profession now. The first subtopic related to policies in the workplace to retain women. Galvan said there are many good policies in place at firms, but the crux is how they are implemented. “I think a generous parental leave is important,” Galvan said. “It is not so much about just having the policy but how accepting the firm is of the policy.” Galvan said having a policy on training is important—not just training on substantive skills but other skills such as how to advance and how things really work. During the fourth subtopic, which focused on psychological safety, Freeman explained that “psychological safety” refers to what is in the workplace that makes you feel safe. “Am I able to speak up? Do I feel safe enough to do that? What does that look like?” she asked the group. “I have to be very thoughtful, especially in generational space,” Galvan said. White said it’s all about making someone feel valued. “I have lost really good female lawyers because no one thought of what they needed.”

Keeping Pace: Creating a (More) Modern Mindset

The Adaptable Lawyer track kicked off with keynote speaker Dyane O’Leary, an associate professor of legal writing and director of the Legal Innovation & Technology Concentration at Suffolk University Law School, asking audience members where technology and innovation start. Her answer: hot dogs. She went on to explain the story of Japanese competitive eater Takeru Kobayashi, who in 2001 changed the Nathan’s Hot Dog Eating Contest by changing the way he approached the challenge. “He dipped the hot dogs in water,” O’Leary said. “He looked at the problem, experimented, and was honest with weaknesses and strengths.” She then said it was important to embrace the idea of seeing something from a different point of view. O’Leary told the group to hold your practice up to a mirror so that you can see things differently. “If you change the way you look at practice, your practice might change.” She then walked through six hypothetical lawyers and lessons practitioners could learn from them, such as keeping up with technology, not working in silos, thinking about how we will use tools of the future, and creating documents much like you would create a cake using a boxed cake mix and running with it. “If you are writing emails from scratch, you are wasting your time,” O’Leary said. So how do you measure your success after altering your mindset? O’Leary said to measure it by staying on the treadmill and continuing to push the boulder. “If we are not moving and putting our skills to work, they are shrinking.”

Legal Issues and Emerging Trends in College Sports Programs

In this session, a panel including Dallas attorney Andrew Rhoden, former college lacrosse coach Rashad Devoe, and Austin-based attorney and ESPN Radio host Stephen M. Foster discussed an array of financial and conference re-alignment issues facing collegiate athletics programs and athletes. As former players and coaches themselves, the panelists provided inside views into the culture of college locker rooms, athletic programs, and how the landscape has shifted over the past couple decades. The panelists placed particular emphasis on the importance of implementing financial and mental health support systems for college athletes, who through name, image, and likeness are now often coming into large amounts of money they’ve never had access to. The panelists said the financial, mental, and emotional support available to these athletes lags far behind the dollar amount they pull in. “We need support systems. If you’re a fan, especially of one of these large schools, and you spend thousands of dollars to go to these games to support these young people playing, one of the rights you have is to ask questions,” Devoe said. “The kind of questions like ‘who is supporting these young men between the lines?’ It’s important that we start asking the ‘why’ questions.”

Getting on the Right Track

One of the biggest ways to challenge stigma is to talk about issues professionally, said panelist Michael Ritter, of Schmoyer Reinhard. In a session hosted by the LGBT Law Section, moderator Jay Larry, of Paramount in New York, asked Ritter and panelist Michelle Fontenot, of the Texas Lawyers’ Assistance Program, about ways to support lawyers struggling with substance use and/or mental health issues. Can stress and anxiety manifest in attorneys? Fontenot said that lawyers are taught in law school to be pessimistic about the world. She said lawyers need to learn how to balance, how to be human at home and not lawyering at home. Ritter said it is important to try to maintain a structure—working when you are working and not working when you are not working. “It takes a commitment to being aware,” he said. “Being more self-aware with technology. The phone is probably the biggest stressor.” He said he creates boundaries on his phone so that he doesn’t get alerts and designates spaces that are for work only to help prevent stimuli that remind you of work. “Once I notice that I’m getting amped up, I do a breathing technique,” Ritter said. “If that doesn’t work, I get up and go on a walk.” If you or someone you know is struggling with substance use or mental health issues, contact TLAP 24/7 at 1-800-343-TLAP (8527).

Texas Supreme Court and Fifth Circuit Update

In the session sponsored by the Appellate and Civil Liberties & Civil Rights sections, panelists Kendyl Hanks, of Greenberg Traurig in Austin; Elizabeth “Heidi” Bloch, of Greenberg Traurig in Austin; and Steven Knight, of Chamberlain Hrdlicka of Houston, provided an update on various cases before the Supreme Court of Texas and the U.S. Court of Appeals for the 5th Circuit, including *Gregory v. Chohan*; *City of League City v. Jimmy Changas, Inc.*; *Hamilton v. Dallas County*; *Norman v. Bodum USA*; *United States v. Rahimi*; *Franlink Inc. v. BACE Services*; and *Sanders v. Boeing Company*.

Estate Planning

Lauren D. Hunt, of Osborne, Helman, Scott, Knisely & Stanton in Austin, provided an update from the 88th legislative session in a presentation titled “Estate Planning Update.” Hunt went through a lengthy list of bills, discussing topics and any changes. Some she touched on included SB 1373, which deals with issues such as qualified delivery method, community property subject to creditors’ claims, property listed in heirship application, service on minors who are at least 16 years old, foreign wills not meeting Texas requirements, and more; HB 2196, which deals with topics such as homesteads owned by revocable trusts, rule against perpetuities, spendthrift provisions and testamentary general powers of appointment, and more; and SB 1457, which deals with issues such as service on attorney ad litem, written designation of guardian, expenditures for ward, and more.



KEYNOTE SPEAKERS Debra H. Lehrmann and Timothy Berg. Photo by Marc Swendner

DRAFTING UNIFORM CODE

Supreme Court of Texas Senior Justice Debra H. Lehrmann and Timothy Berg, chair of the Executive Committee of the Uniform Law Commission, discussed the importance of the Uniform Law Commission, also known as the National Conference of Commissioners on Uniform State Laws, at the Bench Bar Breakfast. The Uniform Law Commission, or ULC, was established in 1892 and since that time has worked for the uniformity of state laws. Members of ULC draft the uniform code. Why should lawyers care about the ULC? Berg said it is an arena where lawmakers and businesses work together. “It will affect your practices directly,” he said. Berg provided an example of a person who has a business in Austin and wants to open one in Salt Lake City—it is easy because the laws are the same and the forms are the same. One of the most important benefits of having uniform law, he said, is that it facilitates business across state lines. Lehrmann said the ULC focuses on commercial law; business entity law; family law; and estate, probate, trust, and real estate law. Who makes up the ULC? Commissioners of the ULC must be members of the bar, and about 40% of the commissioners are private practitioners. Commissioners volunteer their time and serve on committees—studying and drafting committees. Lehrmann said that once the ULC decides to take on a project, it searches for people who are experts, people with divergent points of view. She said the ULC is a resource that practitioners can go to when they see a void in the law. Berg closed by telling the audience to send any ideas to the ULC.

Speaking before Lehrmann and Berg, Supreme Court of Texas Chief Justice Nathan L. Hecht gave a brief report on the state of the judiciary in Texas, noting that dockets are returning to pre-COVID levels and backlogs are beginning to be erased. “This year, we can take comfort in all the good work that has been done,” he said. The 59th emergency order expired February 1, he said, noting that it is probably the last one. “It’s very important, we think, to carry forward the ideas that we have learned during the pandemic,” he said. “One of them is remote proceedings, and so we began with just encouraging trial judges to use remote proceedings as they saw fit. Then as time passed, we began to put some structure to that. And now we have Rule of Civil Procedure 21d and for the JPs 500.10.” Hecht said there were minor changes to the remote proceedings procedures in the 88th legislative session. Business courts, a new addition to the judicial system, will begin operation on September 1, 2024, and also the 15th Court of Appeals, which is associated with the creation of the business courts, he said. “We will be working on rules changes to ensure that those courts operate, both procedurally and administratively, smoothly and the way they should.”

The End of Title 42 at the Border

At a session on Title 42 and border security, panelist Denise Gilman, clinical professor and co-director of the Immigration Clinic at the University of Texas School of Law, discussed how the Centers for Disease Control and Prevention used Title 42 to block or expel asylum seekers at the U.S. border for pandemic control justifications from March 2020 to May 2023. After impacting approximately two million asylum seekers over the course of Title 42’s enforcement, the U.S. has returned to its earlier policy of expedited removal, Gilman said.



50-YEAR LAWYERS

The State Bar of Texas recognized 1,175 lawyers for their 50 years of membership, with more than 100 of those honorees attending a celebratory reception that provides them with an opportunity to catch up with colleagues and friends and featured a visit from Supreme Court of Texas Senior Justice Debra H. Lehrmann, State Bar of Texas President Cindy Tisdale, President-elect Steve Benesh, Immediate Past President Laura Gibson, and Executive Director Trey Appfel. Photo by Marc Swendner

Texas Legal Legends Impart Some Wisdom

The Litigation Section created the Texas Legal Legends program in 2008 to preserve the stories and wisdom of great Texas lawyers. At the session titled “Texas Legal Legends Panel,” moderator Jeanine Rispoli, immediate past president of the Texas Young Lawyers Association, asked this year’s legal legends—Dicky Grigg, of the Law Office of Dicky Grigg in Austin; state Rep. Evelina Ortega, of El Paso; and Harry M. Reasoner, of Vinson & Elkins in Houston—about their careers and life lessons. The honorees stressed the importance of giving back to the community. Ortega suggested lawyers serve on city boards or with other nonprofit organizations where legal expertise is needed. Reasoner said that pro bono work is “one of the most rewarding things you can do,” calling it “an obligation for lawyers.” Grigg had the audience laughing, sharing that “A few years ago, I started taking some cases that would look good on my obituary. Otherwise, my obituary would say, ‘Mr. Grigg had a long, distinguished career trying to decide which car entered the intersection first.’” Asked to describe a time they fought for a cause or defendant that was unpopular, Grigg discussed his defense of detainees at Guantanamo Bay. Grigg said he and other lawyers involved felt their work was “not about the detainees [but] about the rule of law.” He said that the experience increased his respect for the legal profession, noting that lawyers from 37 of the country’s 50 largest law firms participated.

Practicing Family Law

In a session titled “Professionalism, Ethics, and the Practice of Family Law,” panelists Sarah Clower Keathley, of Keathley and Keathley in Corsicana, and Lisa Richardson, of the Law Office of Lisa Richardson in Round Rock, discussed ethical responsibilities as they apply to family law practitioners and broke them down into 13 areas, including expertise (now it is required to be competent in technology), communication (be upfront and set boundaries and expectations for response times), and confidential information (keep the juicy details confidential). While talking about diminished capacity, Keathley asked the audience what to do when you have a client who is intoxicated in court. She answered, “They can’t sign anything.” The panelists emphasized that setting and collecting reasonable fees is important. As far as ethical obligations to the other party, Richardson said she keeps everything in writing. Referring to refusal to harass, Keathley said, “We have an ethical responsibility not to belittle another person.” The panelists also touched on bills paid by a person other than the client, best interest of the children, illegal recordings, family violence (have a duty to make sure the children are safe and have to report it), and professionalism (make sure you are doing everything you should be doing to protect your reputation).

Technology and the Fourth Amendment

In this session, Houston criminal defense attorneys Nelson Ebaugh and Thuy Le demonstrated that rapid technological advancement has dramatically outpaced court precedent, and its creative use is presenting new privacy- and Fourth Amendment-centered challenges that courts will need to soon address. Le focused on the January 6 Capitol riots, stating that never before had the federal government implemented such broad, detailed surveillance to prosecute hundreds of citizens in the aftermath. For historical background, she referenced the 1967 U.S. Supreme Court search and seizure case *Katz v. United States*, which established there is a “reasonable expectation of privacy” inside of a phonebooth. “I really think this case is going to be important when we apply it to new technology,” Le said. Ebaugh followed with a presentation on the reemergence of Fourth Amendment privacy issues related to the use of cellphones, block chain, and pole cameras, often found in neighborhoods. “Cellphones—they’re almost like a part of our anatomy these days,” he said, referencing the 2018 landmark U.S. Supreme Court case *Carpenter v. United States*, which ruled that a warrant is required for law enforcement to acquire an individual’s cellphone data from a third-party such as a carrier.

Open Government Seminar: Legislative Update

In this moderated panel, Austin attorney Amy Bresnen; Texas Sen. Nathan Johnson, of District 16 (Dallas County); and Hadassah Schloss, director of the Open Government Division of the Texas General Land Office, discussed the importance of open government and First Amendment rights—particularly the Texas Citizens Participation Act, or TCPA, and the Texas Public Information Act—and activities related to them during the 2023 Texas regular legislative session. The panelists noted that changes were made to the Anti-SLAPP statute, such as added exemptions for legal malpractice claims. Johnson said that over the past few years, the anti-SLAPP statute was beginning to be “weaponized” in various instances around the state.

U.S. Copyright Office Confronts AI and Introduces New Small Claims Process

Suzy Wilson, general counsel to the U.S. Copyright Office, gave an overview of the office’s work and filled in attendees at the Intellectual Property Law Section’s awards luncheon about recent developments. Highlights included discussions of several cases where claimants tried to copyright materials generated or partially generated by artificial intelligence, or AI. Wilson discussed the case of comic book *Zarya of the Dawn*, which had images generated by AI and text written by a human. The case prompted the office to issue a policy statement on AI this year and to create the website copyright.gov/ai. Wilson also informed attendees about the office’s new Copyright Claims Board that hears cases that request relief of \$30,000 or less as an alternative to federal court. The board was created a year ago after it was mandated by legislation (House Resolution 2436). So far, there have been about 500 claims, with most claimants representing themselves. Wilson said this indicates that there was a large number of people who weren’t being served before. Most are infringement claims, she said.

Time Management

We don’t manage time. What we manage is energy, said Modern Juris founder and principal Anne-Marie Rábago in her presentation titled “Ethical Time Management and Productivity Methods for Attorneys.” Rábago, who was previously director of the Texas Opportunity & Justice Incubator, reminded the audience of rules such as Texas Disciplinary Rule of Professional Conduct 1.01, Comment 6, on the capacity to do work. Rábago suggested using something as simple as a calendar to get ideas out and into a trustworthy place. Use a task planner and engage, she said. Comment 7 of TDRPC 1.01 involves procrastination. As we put things off, the weight of those to-dos causes tension that doesn’t allow us to serve clients well, Rábago said. Instead of that, Rábago, quoting Mark Twain, said to “eat the frog” early—that is, do the “worst thing you’ll do all day” first—and the rest of the day do the tasks you want to do. There’s a dopamine rush when you create a to-do list and finish it all and cross your list off, she said. “Give yourself that gift.”

Blueprint for Building Solutions for an Effective Workplace

In this session, former 5th Court of Appeals Justice John G. Browning said that frequently “feel good” efforts are the extent of a law firm’s vision of enhancing diversity in its workplace but noted that these efforts often fall short. Browning emphasized the need for improvement in this area by reaching future waves of law students in three ways: 1) Informing students as early as possible that practicing law is a realistic pursuit; 2) Educating students on the practice of law, its history, and opportunities; and 3) Taking measurable action to help students from underrepresented groups overcome obstacles in their career path, including lack of financial and academic resources, as well as mentorship. “We can do better, and we must do better. There is more that needs to be done,” he said. Veronica Valenzuela, founder of V. Valenzuela Law Firm in Austin, added that it’s important to get firms’ leadership involved and committed to any proposed plan for improving diversity in the legal profession.

Practicing Law and Dealing With Emotions

In this session, Justice Lawrence M. Doss, of the 7th Court of Appeals in Amarillo, called out a common approach attorneys take to their practices: law over reason. “If we can stuff emotion down long enough, we can be successful practicing attorneys,” he said. “That may work on paper . . . but is that the healthiest thing for us to do as attorneys?” Sometimes when going through a logical analysis of a case, attorneys and judges attempt to reach a law-based conclusion to justify a given emotion they are feeling during the case, he said, adding that respecting the emotional toll of such a high-stress profession is essential to success. Doss cited a 2023 study led by Patrick Krill titled “Stressed, Lonely, and Overcommitted: Predictors of Lawyer Suicide Risk,” which shows perceived stress was the number one predictor of suicide among a random sample of 2,000 attorneys in California and Washington, D.C. According to the study, attorneys experiencing “high stress” were 22 times more likely to contemplate suicide, while lawyers feeling lonely were three times more likely. “We have not done a good job of understanding the emotional side to practicing law and what happens to us as attorneys,” he said.



TEXAS BAR FOUNDATION

Award winners were recognized during the Texas Bar Foundation's 2023 Annual Dinner on June 23. Standing from left: Kevin Dubose, E. Marie Jamison, Ricardo G. Cedillo, Mark A. Shank, Hon. Simeon T. Lake III, Quentin Brogdon, Hon. John Browning. Seated from left: Hon. Alice Bonner, Roy L. Barrett, David H. Segrest, Fredrick F. "Rick" Rogers Jr., Fred Hagans, and Al Ellis. Photo by Marc Swendner

Race and Rights and IP

In a session titled "Race and Rights: The Intersection of Copyright and Intellectual Property Law for Black Creators," panelist Danny Norris, of Norris & Norris in Houston, said discrimination-based issues have historically affected African American artists and creators attempting to secure copyright, patent, trade secrets, or trademark protection. He discussed the differences between each type of protection and the commonality of consulting with clients who are largely unaware of the full extent of their creatural rights, even for content that was produced years prior. "Even rappers of our generation are still trying to figure out 'What am I doing?' Artists of our generation are saying 'Hey, I have all this intellectual property, and I've made millions of dollars over the years, but I'm still trying to figure out what my rights are,'" Norris said. Intellectual property rights are mentioned in the U.S. Constitution, Norris said, but even well after the enactment of the 14th Amendment, African American creators routinely lost their patents over the next 75 years, if they were able to secure them at all.

First-Generation Lawyers Share Their Experiences

In a session titled "The Future Is Now: 1st Gen Lawyers Speak on Their Issues, Challenges, and Hopes," moderator Nadda Rungruangphol, of the Texas State Securities Board in Austin, asked panelists questions centered on first-generation experiences, networking, and advice for others. Panelist Saumya Kuriakose, of the Pettit Law Firm in Dallas, said that the first challenge was that she did not know a single lawyer, her parents did not know a single lawyer, and no one at her church knew a single lawyer. "It was all a huge learning curve," Kuriakose said, adding that she got lucky with her supervisor and learned how to network from her. "You should go to events where you can give something in return," Kuriakose said. "You also don't have to go to everything." Panelist Alysia D. Huskey, of the Kaufman County Criminal District Attorney's Office in Kaufman, said she would tell people who don't have a lot of experience working with first-generation lawyers to be graceful. "Just throwing something in the trash is not helpful. Show them what you expect and let them know why," Huskey said. Kuriakose said she would tell a young attorney in her shoes to do one item at a time, one problem at a time, and one challenge at a time. Huskey said she would advise the young attorney to share your troubles and share your joy. "I struggled in law school because I struggled and didn't reach out," Huskey said.

A Look at Remote Proceedings

In a session titled "Post-Pandemic Court Proceedings," Hon. Roy Ferguson, of the 394th District Court in Alpine, told the audience that he was on spring break when he found out he had three days to figure out how to do remote proceedings. He said the courts shut down that Monday; David Slayton, at the time the administrative director of Texas Office of Court Administration, or OCA, said they had purchased Zoom licenses for every court in Texas and went live on Wednesday. Moderator Megan LaVoie, of the OCA, said they could have let the counties figure it out, but it was important to be uniform across the state. The panelists, including Ferguson; Michelle Casady, of the Texas Lawbook; and Jennifer Doan, of Haltom & Doan in Texarkana, discussed court proceedings during the pandemic and after. Casady said that during the pandemic, Texas did a good job of making it easy for reporters to access links. Ferguson said that a page on the OCA website listed all the live Zoom links. The panelists discussed Supreme Court of Texas rules regarding remote proceedings, mentioning that there is a different standard for civil cases and criminal cases. LaVoie asked the panelists what role, if any, remote proceedings have in the future and what has worked and not worked. Ferguson said so much has worked. "Our numbers for online are through the roof," he said. "What didn't work? Cat filters."



TEXAS YOUNG LAWYERS ASSOCIATION

Laura Pratt was sworn in as 2023-2024 TYLA president during an evening reception that acknowledged the group's projects, previous officers, new leaders, and outstanding attorneys. To see a list of award winners, go to texasbar.com/annualmeetingawards. Photo by Eric Quitugua

U.S. Supreme Court Update

In this session produced by the Appellate and Civil Liberties & Civil Rights sections, University of Texas School of Law Professor Erin Busby highlighted some of the most prominent cases argued before the U.S. Supreme Court during its October 2022 term. The cases discussed included those related to copyright/trademark issues, student loan relief, and college admissions processes. Busby surveyed the following cases, some of which were decided in between Annual Meeting and the publishing of this summary: *Andy Warhol Foundation for the Visual Arts v. Goldsmith*; *Jack Daniel's Properties, Inc. v. VIP Products*; *303 Creative v. Elenis*; *Counterman v. Colorado*; *United States v. Hansen*; *Biden v. Nebraska*; *Department of Education v. Brown*; *Students for Fair Admissions, Inc. v. President and Fellows of Harvard College*; *Students for Fair Admissions, Inc. v. University of North Carolina*; *Gonzalez v. Google*; *Twitter v. Taamneh*; *Moore v. Harper*; *Allen v. Milligan*; *National Pork Producers Council v. Ross*; *Sackett v. EPA*; and *U.S. v. Texas*.

ChatGPT: Benign Title, Revolutionary Development

In this session, Korin Munsterman, a professor of practice and the director of the Legal Education Technology program at UNT Dallas College of Law, discussed ChatGPT, or generative artificial intelligence, which she said has brought excitement and fear to the legal profession. Munsterman said practitioners have been using artificial intelligence for years, but generative artificial intelligence is different and there are limitations to using it now. In a nutshell, generative artificial intelligence is a type of AI that generates content such as text, images, or other media based on data it was trained on. Munsterman said, "Bias is built into these systems." It is important to verify anything generated by ChatGPT for accuracy, she said, noting the hearing in which New York attorney Steven A. Schwartz disclosed that he created a legal brief for a case that was filled with ChatGPT-generated fake judicial opinions and legal citations. She said that ChatGPT creates false information because it is not equipped to not tell the truth. "Once you peel back the layers," she said, "they are just doing processes." Munsterman said that it is possible that information created by ChatGPT will be harmful, but it doesn't know. "All it is doing is generating the next word. Nothing is original."

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NLRG Client Obtains Favorable Settlement in Shipping Dispute:

An engineering company contracted with an Indiana carrier to ship sophisticated equipment from California to the shipper in Texas. The carrier's tariff provided that any claim for damage during shipment had to be filed within 9 months after delivery. When the equipment was damaged en route, the shipper notified the carrier, within 9 months, that it sought to be reimbursed for the damage, and that the carrier should open a claim if it had not already done so, but the shipper did not provide specific information about the amount of the damage. The carrier would not settle the matter, arguing that the shipper's claim was time-barred because it was not filed within 9 months with the specificity required by the tariff, Carmack Amendment regulations, and Fifth Circuit precedent. Relying on an argument prepared by attorney **Paul Ferrer** of NLRG, attorney **Steve Potts** of **Potts Law Group** responded that the Seventh Circuit, where the carrier is headquartered, has held that a specific dollar amount is not an absolute requirement; rather, it is enough if the carrier is given sufficient information to begin processing the claim. The carrier eventually agreed to settle the matter for the entire amount sought by the shipper: the full cost to repair the equipment.

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