

## DAVID KELTNER Partner

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Fort Worth



### BIOGRAPHY

Formerly a Justice on the Texas Court of Appeals, David Keltner is lead counsel in over 300 appellate decisions. His legal writings are cited, with approval, by Texas courts.

Mr. Keltner is recognized for his appellate accomplishments. He was honored by Texas Lawyer as the "Go To" appellate lawyer in Texas. *Texas Super Lawyers* selected him as one of the Top 10 Lawyers in Texas for the last eleven years. He was the "Top Point Getter" in Texas 2009-2011. The Texas Bar Foundation honored him with the inaugural Gregory S. Coleman Outstanding Appellate Lawyer Award, and he was named *Best Lawyers* 2016 and 2018 Appellate "Lawyer of the Year" for Dallas/Fort Worth. Mr. Keltner is also recognized on the national stage as a Fellow of the American Academy of Appellate Lawyers, one of only 320 in the country.

Mr. Keltner served as Chair of the Board of Directors of the State Bar of Texas. He was also Chair of the Litigation Section and the College of the State Bar of Texas, as well as Chair of the Fellows of the Texas Bar Foundation.

The Texas Supreme Court appointed Mr. Keltner to a number of its committees. He served on the Texas Supreme Court Advisory Committee from 1993-2000 and was appointed Chair of the Texas Supreme Court Discovery Task Force. He was also a member of the Texas Supreme Court Advisory Committee for Professionalism that drafted the Texas Lawyer's Creed.

### EXPERIENCE AND HIGHLIGHTS

- *BNSF Ry. Co. v. Baca*, No. 02-17-00168-CV, 2018 WL 1528573 (Tex. App.—Fort Worth March 29, 2018, no pet.)(mem. op.)
- *Rainier Southlake DST v. Woodbury Strategic Partners Fund, LP*, No. 02-16-00263-CV, 2017 WL 6047725 (Tex. App.—Fort Worth Dec. 7, 2017, no pet.) (mem. op.)
- *City of San Antonio, Texas v. Hotels.com, L.P.*, 876 F.3d 717 (5th Cir. 2017)
- *Permian Power Tong, Inc. v. Diamondback E&P, LLC*, No. 12-16-00092-CV, 2017 WL 2824311 (Tex. App.—Tyler June 30, 2017, pet. denied)
- *In re Paul*, No. 10-16-00359-CV, 2017 WL 1749805 (Tex. App.—Waco May 3, 2017, orig. proceeding)
- *BNSF Ry Co. v. Eppler*, No. 07-15-00355-CV, 2016 WL 7010581 (Tex. App.—Amarillo Nov. 30, 2016, pet. denied)
- *Saving v. City of Mansfield*, 505 S. W.3d 33 (Tex. App.—Fort Worth 2016, pet. denied)
- *In re Paul*, No. 10-16-00004-CV, 2016 WL 2609599 (Tex. App.—Waco May 5, 2016, orig. proceeding)
- *In re Nat'l Lloyds Ins. Co.*, No. 13-15-00521-CV, 2016 WL 552112 (Tex. App.—Corpus Christi Feb. 10, 2016, orig. proceeding [mand. denied])

- *BNSF Ry. Co v. Phillips*, 485 S.W.3d 908 (Tex. 2015)
- *Conglomerate Gas II, L.P. v Gibb*, No. 02-14-00119-CV, 2015 WL 6081919 (Tex. App.—Fort Worth Oct. 15, 2015, pet. denied)
- *Abraham & Veneklasen Joint Venture v. Am. Quarter Horse Ass'n*, 776 F.3d 321 (5th Cir. 2015)
- *In re Hayward*, 480 S.W.3d 48 (Tex. App.—Fort Worth 2015, orig. proceeding)
- *Sinclair v. Estate of Ramirez*, No. 10-14-00157-CV, 2015 WL 3534156 (Tex. App.—Waco June 4, 2015, no pet.) (mem. op.)
- *Williams-White v. White*, No. 05-13-00414-CV, 2015 WL 1182879 (Tex. App.—Dallas March 16, 2015, no pet.)
- *In re Siroosian*, 449 S.W.3d 920 (Tex. App.—Fort Worth 2015, orig. proceeding)
- *Lermon v. Minyard Food Stores, Inc.*, No. 05-13-00034-CV, 2014 WL 6466840 (Tex. App.—Dallas Nov. 19, 2014, pet. denied)
- *HMC Hotel Props. II Ltd. P'ship v. Keystone-Tex. Prop. Holding Corp.*, 439 S.W.3d 910 (Tex. 2014)
- *BNSF Ry. Co. v. Wipff*, 408 S.W.3d 662 (Tex. App.—Fort Worth 2013, no pet.)
- *Combs v. Health Care Servs. Corp.*, 401 S.W.3d 623 (Tex. 2013)
- *Minton v. Gunn*, 133 S. Ct. 1059, 185 L. Ed. 2d 72 (2013)
- *Harris v. BNSF Ry. Co.*, 393 S.W.3d 789 (Tex. App.—El Paso 2012, no pet.)
- *Riemer v. State*, 392 S.W.3d 635 (Tex. 2012)
- *U-Haul Int'l, Inc. v. Waldrip*, 380 S.W.3d 118 (Tex. 2012)
- *Tex. Rice Land Partners, Ltd. v. Denbury Green Pipeline-Tex., LLC*, 381 S.W.3d 465 (Tex. 2012)
- *Farm & Ranch Investors, Ltd. v. Titan Operating, L.L.C.*, 369 S.W.3d 679 (Tex. App.—Fort Worth 2012, pet. denied)
- *Frac Tech Servs., Ltd. v. FMC Tech., Inc.*, No. 11-11-00175-CV, 2012 WL 1143798 (Tex. App.—Eastland 2012, no pet.)
- *Aston Meadows, Ltd. v. Devon Energy Prod. Co.*, 359 S.W.3d 856 (Tex. App.—Fort Worth 2012, pet. denied)
- *Pelozo v. Cuevas*, 357 S.W.3d 200 (Tex. App.—Dallas 2012, no pet.)
- *City of Houston v. Hotels.com, L.P.*, 357 S.W.3d 706 (Tex. App.—Houston [14th Dist.] 2011, pet. denied)
- *BNSF Ry. Co. v. Nat'l Union Fire Ins. Co.*, 334 S.W.3d 217 (Tex. 2011)
- *IASIS Healthcare Corp. v. Apollo Physicians of Tex., P.A.*, No. 13-10-00173-CV, 2011 WL 4998644 (Tex. App.—Corpus Christi Oct. 20, 2011, no pet.) (mem. op.)
- *Faust v. BNSF Ry. Co.*, 337 S.W.3d 325 (Tex. App.—Fort Worth 2011, pet. denied)
- *Martin v. Martin*, No. 02-08-490-CV, 2010 WL 2331448 (Tex. App.—Fort Worth 2010, pet. denied)
- *French v. Law Offices of Windle Turley, P.C.*, No. 02-08-273-CV, 2010 WL 744794 (Tex. App.—Fort Worth March 4, 2010, no pet.)
- *Siesta Village Market LLC v. Steen*, 595 F.3d 249 (5th Cir. 2010)
- *Winegar v. Martin*, 304 S.W.3d 661 (Tex. App.—Fort Worth 2010, no pet.)
- *In re Petrohawk Energy Corp.*, No. 02-10-108-CV, 2010 WL 1946750 (Tex. App.—Fort Worth 2010, orig. proceeding [mandamus denied])
- *Simmons v. Indus. Recovery Capital Holdings Co.*, No. 05-10-00392-CV, 2010 WL 2473367 (Tex. App.—Dallas 2010, no pet.)
- *Escondido Servs., LLC v. VKM Holdings, LP*, 321 S.W.3d 102 (Tex. App.—Eastland 2010, no pet.)
- *Fawcett, Ltd. v. Idaho N. & Pac. Ry. Co.*, 293 S.W.3d 240 (Tex. App.—Eastland 2009, pet. denied)
- *Bandera Drilling Co., v. Sledge Drilling Corp.*, 293 S.W.3d 867 (Tex. App.—Eastland 2009, no pet.)
- *In re Breitburn Energy Partners, L.P.*, No. 02-09-307-CV, 2009 WL 2972841 (Tex. App.—Fort Worth 2009, orig. proceeding)
- *Farlow v. Harris Methodist Fort Worth Hosp.*, 284 S.W.3d 903 (Tex. App.—Fort Worth 2009, pet. denied)
- *Sun-Key Oil Co., v. Cannon*, No. 11-07-00025-CV, 2009 WL 626071 (Tex. App.—Fort Worth 2009, pet. denied)
- *Burnett Ranches, Ltd. v. Cano Petroleum, Inc.*, 289 S.W.3d 862 (Tex. App.—Amarillo 2009, pet. denied)
- *Unauthorized Practice of Law Comm. v. Home Assurance Co.*, 261 S.W.3d 24 (Tex. 2008)
- *Baker Botts, L.L.P. v. Cailloux*, 224 S.W.3d 723 (Tex. App.—San Antonio 2007, pet. denied)
- *In re Rental Servs. Corp.*, No. 02-06-338-CV, 2006 WL 3525380 (Tex. App.—Fort Worth 2006, orig. proceeding)
- *Hyundai Motor Co. v. Vasquez*, 189 S.W.3d 743 (Tex. 2006)
- *Sterling Trust Co. v. Adderley*, 168 S.W.3d (Tex. 2005)
- *In re Stone & Webster, Inc.*, No. 02-05-189-CV, 2005 WL 1654875 (Tex. App.—Fort Worth 2005, pet. denied)
- *Shirvanian v. DeFrates*, 161 S.W.3d 102 (Tex. App.—Houston [14th Dist.] 2004, pet. denied)
- *COC Servs., Ltd. v. CompUSA, Inc.*, 150 S.W.3d 654 (Tex. App.—Dallas 2004, pet. denied)
- *Le Meridien Hotels & Resorts v. LaSalle Hotel Operating P'ship, I, L.P.*, 141 S.W.3d 870 (Tex. App.—Dallas 2004, pet. denied)

- *Swank v. Sverdlin*, 121 S.W.3d 785 (Tex. App.—Houston [1st. Dist.] 2003, pet. denied)
- *Monsanto Co. v. Boustany*, 73 S.W.3d 225 (Tex. 2002)
- *Borneman v. Steak & Ale of Tex., Inc.*, 22 S.W.3d 411 (Tex. 2000)
- *Chromalloy Gas Turbine Corp. v. United Techs. Corp.*, 9 S.W.3d 324 (Tex. App.—San Antonio 1999, pet. denied)
- *Stanton v. Univ. of Tex. Health Science Ctr. at Dallas*, 997 S.W.2d 628 (Tex. App.—Dallas 1998, pet. denied)
- *In re Cont'l Airlines, Inc.*, 988 S.W.2d 733 (Tex. 1998)
- *J.D. Abrams, Inc. v. Mclver*, 966 S.W.2d 87 (Tex. App.—Houston [1st Dist.] 1998, pet. denied)
- *ACS Investors, Inc. v. McLaughlin*, 943 S.W.2d 426 (Tex. 1997)
- *Vinson & Elkins v. Moran*, 946 S.W.2d 381 (Tex. App.—Houston [14th Dist.] 1997, writ dismissed by agr.)
- *Simms v. First Gibraltar Bank*, 83 F.3d 1546 (5th Cir. 1996)
- *George Grubbs Enters., Inc. v. Bien*, 900 S.W.2d 337 (Tex. 1995)
- *Hyundai Motor Co. v. Alvarado*, 892 S.W.2d 853 (Tex. 1995)

## AFFILIATIONS AND HONORS

### AFFILIATIONS

- Board Certified, Civil Appellate Law, Texas Board of Legal Specialization Certification
- Board Certified, Personal Injury Trial Law, Texas Board of Legal Specialization Certification
- State Bar of Texas
  - Board of Directors, Chair, 1999-2000
  - Presidential Citation, 1984, 2000, 2008, 2010
- Tarrant County Bar Association
  - Director, 1990-1995, 1997-2000, 2009-2012
  - President, 2015-2016
  - Blackstone Award, 2017
- American Academy of Appellate Lawyers, Fellow
- American Bar Foundation, Sustaining Life Fellow
- Texas Bar Foundation, Sustaining Life Fellow
- American Inns of Court—Eldon Mahon Inn, Master, 1994-1996; 2007-present
- Fellows of the Texas Supreme Court Historical Society, Founding Member
- SMU Dedman School of Law, Executive Board, 1998-present
- Texas A&M University School of Law, Dean's Advisory Council, Chair, 2013-present
- State Bar of Texas Continuing Legal Education Committee, Member, 2016-present
- The University of Texas McDonald Observatory, Board of Visitors, 1997-present
- Trinity Valley School; Board of Trustees, 2001-2013
  - President, 2009-2012
- Litigation Counsel of America, Trial Lawyer Honorary Society, 2014-present
- American Board of Trial Advocates

### HONORS

- Named Dallas/Fort Worth *Best Lawyers*® Appellate Practice Lawyer of the Year, 2018
- *Chambers USA*: Guide to America's Leading Lawyers for Business, 2007-2018
- Listed in *The Best Lawyers in America*®, 2006-2018
- Top Attorney in Appellate Law by *360 West* magazine, 2018
- Top 10 Lawyers in Texas by *Texas Super Lawyers*, Thomson Reuters, 2003-2018; Top Point Getter, 2009-2011
- Selected as a Top Attorney by *Fort Worth, Texas* magazine, 2008-2017
- Named a Top Attorney in Appellate Law and Arbitration and Mediation by *360 West* magazine, 2017
- Pro Bono College of the State Bar of Texas, Member, 2012-2017
- Named Dallas/Fort Worth *Best Lawyers*® 2016 Appellate Practice Lawyer of the Year
- Helen A. Cassidy Award for highest rated CLE presentation at the State Bar of Texas 20th Annual Advanced Civil Appellate Practice Course, 2007, 2015
- Gregory S. Coleman Outstanding Appellate Lawyer of Texas, Texas Bar Foundation, 2012

- Named the Dallas *Best Lawyers*® Appellate Practice Lawyer of the Year, 2011
- Jim D. Bowmer Professionalism Award, College of the State Bar of Texas, 2007
- Selected as the Go To Texas Lawyer for Appeals by *Texas Lawyer*, 2007
- Gene Cavin Award (Excellence in Continuing Legal Education), State Bar of Texas, 2002
- Dan Rugely Price Memorial Award (Excellence in Legal Writing), Texas Bar Foundation, 2002
- Outstanding Law Review Award, Texas Bar Foundation, 1986
- Outstanding Young Lawyer of Texas, Texas Young Lawyers Association, 1984

## EDUCATION

- Southern Methodist University Dedman School of Law, J.D., 1975
- Trinity University, B.A., 1972

## ADMISSIONS

- State Bar of Texas, 1975
- U.S. Supreme Court
- U.S. Court of Appeals, Fifth Circuit
- U.S. Court of Appeals, Tenth Circuit
- U.S. District Court, Northern District of Texas
- U.S. District Court, Southern District of Texas
- U.S. District Court, Eastern District of Texas
- U.S. District Court, Western District of Texas

## SPEECHES & PUBLICATIONS

- "Jury Charge Update," Texas Bar CLE 34th Annual Litigation Update Institute Austin (2018)
- "Partnership Fiduciary Claims & Defenses," Texas Bar CLE 12th Annual Fiduciary Litigation San Antonio (2017)
- "Jury Charge Update," Texas Bar CLE 31st Annual Advanced Civil Appellate Practice Course Austin (2017)
- "Practical Admissibility Issues," Texas Bar CLE Business Disputes Austin (2017)
- "The Common Law is Not Dead," UT Law CLE 27th Annual Conference on State and Federal Appeals (2017)
- "Winning Strategies for Petitioners and Respondents in the Texas Supreme Court," HBA Appellate Practice Section Luncheon (2017)
- "Jury Charge Update," Corpus Christi Bar Association Advanced Civil Trial Law Seminar (2017)
- "Findings of Fact & Conclusions of Law," Office of the Attorney General Course (2017)
- "Jury Charges," Texas Bar CLE Advanced Civil Appellate Practice Course (2016)
- "The Charge Conference From The Defendant's Perspective," State Bar Litigation Section Report (Volume 76, Fall, 2016)
- "Findings of Facts and Conclusions of Law," Texas Bar CLE Advanced Civil Trial Course (2016)
- "Findings of Facts and Conclusions of Law Update," UT Law CLE 26th Annual Conference on State and Federal Appeals (2016)
- "Jury Charge Update," Corpus Christi Bar Association Advanced Civil Trial Law Seminar (2016)
- "Tactics for Appellees and Respondents," Texas Bar CLE Advanced Civil Appellate Practice Course (2015)
- "Back Story of *Sweatt v. Painter*," Texas Supreme Court Practices Course (2015)
- "Jury Charge Update," UT Law Annual Conference on State and Federal Appeals (2015)
- "Jury Charges," Texas Bar CLE Advanced Civil Appellate Practice Course (2014)
- "*Sweatt v. Painter*," Reenactment of Oral Argument, State Bar of Texas Annual Meeting (2014)
- "Oral Argument: Organization and Preparation," UT Law CLE Conference on State and Federal Appeals (2014)
- "Appellate Mediations," Houston Bar Association Annual Conference on ADR (2014)
- Texas Discovery, Thomson West (2015)
- "Getting the Charge Right & Charge Error Preservation," Corpus Christi Bar Association Advanced Civil Trial Law Seminar (2014); UT Law CLE Conference on State and Federal Appeals (2013); Texas Bar CLE 36th Advanced Civil

- Trial Course (2013); Texas Bar CLE 27th Annual Advanced Civil Appellate Practice Course (2013); and 37th Annual Page Keeton Civil Litigation Conference of UT Austin (2013)
- "Findings of Fact and Conclusions of Law," Houston Bar Association (2013)
  - "Respondent's Best Strategies in the Supreme Court," Texas Bar CLE Practice Before the Texas Supreme Court (2013)
  - "Defenses to Damages: Prerequisites to Damages," Texas Bar CLE 5th Annual Damages in Civil Litigation Course (2013)
  - "Getting the Charge Right," State Bar of Texas Webinar (2013)
  - "Harmless Error—Really?," Texas Bar CLE Advanced Civil Appellate Practice Course (2012)
  - "Continuing Developments in Jury Selection," Texas Bar CLE 35th Annual Advanced Civil Trial Course (2012)
  - "Preservation of Error," State Bar College Summer School (2012)
  - "Voir Dire Update – When to Challenge for Cause and How to Preserve Error," UT Law CLE Conference on State and Federal Appeals (2012)
  - "Attorney Client Work Product," Advanced Evidence and Discovery Course (2012)
  - "Preservation of Error," Texas Bar CLE Advanced Personal Injury Trial Course (2012)
  - "Findings of Fact and Conclusions of Law," Texas Bar CLE Handling Your First (2012)
  - "Findings of Fact and Conclusions of Law Update," Tarrant County Bar Association Bench Bar Conference XVIII (2011)
  - "Trying Cases to the Trial Court: Findings of Fact & Conclusions of Law Update," State Bar College 13th Annual Summer School (2011)
  - "Challenges for Cause in the Jury Selection Process: When a Person Can/Can't be Rehabilitated Judicial Perspective," Texas Bar CLE 34th Annual Advanced Civil Trial Course (2011)
  - "Pre-Trial Strategies: Personal Injury," State Bar College Spring Training (2011)
  - "Findings of Fact and Conclusions of Law: Do They Really Matter?," Texas Bar CLE Handling Your First Civil Appeal (2011)
  - "Findings of Fact and Conclusions of Law: Do They Really Matter?," TCBA Appellate Section Disposition Without a Jury (2011)
  - "Bench Trials: Findings of Fact and Conclusions of Law," Texas Bar CLE Advanced Civil Appellate Practice Course (2011)
  - "How to Convince the Supreme Court to Overturn Adverse Precedent," Texas Bar CLE Practice Before the Texas Supreme Court (2011)
  - "Findings of Fact and Conclusions of Law: Do They Really Matter?" 24th Annual Advanced Civil Appellate Practice Course (2010)
  - "Preservation of Error," BNSF Conference (2010)
  - "Post-Judgment Collections and Enforcement of Final Judgments in Texas," State Bar College Summer School (2010)
  - "The Future of Law Practice," State Bar College Spring Training (2010)
  - "Protecting the Record for Appeal: A Reference Guide in Texas Civil Cases," 17 St. Mary's L.J. 273 (1986) [Selected "Outstanding Law Review Article" by the Texas Bar Foundation]
  - "Trying the Trier of Fact: Jury Misconduct in Texas," 34 Sw. L.J. 1131 (1981)