

# KELLY HART

ATTORNEYS AT LAW

## JOHN H. CAYCE JR. Partner

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Fort Worth



### BIOGRAPHY

John H. Cayce, Jr. is the former Chief Justice of Texas' Second Court of Appeals. During his fifteen years of public service as a state appellate judge, he sat twice as a Justice on the Supreme Court of Texas by appointment of Governors Bush and Perry and held various state-wide leadership positions within the judiciary, including Chair of the Council of Chief Justices. Prior to his election to the bench in 1994, Mr. Cayce had risen to prominence as one of the state's top appellate attorneys having successfully argued many significant cases in both state and federal courts. A board certified specialist in appellate law and former Supreme Court of Texas briefing attorney, his writings on appellate procedure have been cited with approval by Texas courts and used as course material in law schools.

Upon returning to private practice, Mr. Cayce was named one of the Top 100 lawyers in Texas by Thomson Reuters, which is published in Texas Monthly magazine. He has been chosen a Texas Super Lawyer every year since 2011. *U.S. News and World Reports* has included Mr. Cayce on *The Best Lawyers in America*® ranking every year since 2014. Mr. Cayce was also voted by his peers as among the city's best appellate attorneys in polls conducted by *Fort Worth, Texas* magazine and *360 West*.

Mr. Cayce has actively served the legal profession and advised the Texas judiciary in many capacities, including service on the Supreme Court of Texas Advisory Committee, the Texas Judicial Council, and the Texas Board of Law Examiners. He is currently President-elect of the Tarrant County Bar Association.

In addition to his professional activities, Mr. Cayce commits much of his time to church and community service. He is a co-founder of NewDay Services for Children and Families, a non-profit organization that works with the Tarrant County family and juvenile court systems to assist children and parents affected by divorce and juvenile crime. In 2009, he received NewDay's first "Community Servant Award" in recognition of his contributions and continued support of its work. Having served in the U.S. Navy Seabees during the Vietnam conflict, he has volunteered his time to assisting other veterans through legal clinics sponsored by the Tarrant County Bar Association's chapter of the Texas Lawyers For Texas Veterans program.

### EXPERIENCE AND HIGHLIGHTS

Mr. Cayce has served as trial and lead appellate counsel in numerous important cases. Several of those cases have led to precedent-setting decisions. The following is only a partial list of his most significant cases to date:

- *Anderson v. Durant*, 550 S. W. 3d 605 (Tex. 2018)

- *N. Am. Tubular Servs., LLC v. BOPCO, L.P.*, No. 02-17-00352-CV, 2018 WL 4140635 (Tex. App.—Fort Worth Aug. 20, 2018, no pet.) (mem.op.)
- *Kinsel v. Lindsey*, 526 S.W.3d 411 (Tex. 2017)
- *Crosstex N. Texas Pipeline, L.P. v. Gardiner*, 505 S.W.3d 580 (Tex. 2016)
- *In re Lipsky*, 460 S.W.3d 579 (Tex. 2015)
- *Moncrief Oil Intern. Inc. v. OAO Gazprom*, 414 S.W.3d 142 (Tex. 2013)
- *Strickland v. Medlen*, 397 S.W.3d 184 (Tex. 2013)
- *Harwell v. State Farm Mut. Auto. Ins. Co.*, 896 S.W.2d 170 (Tex. 1995)
- *Elbaor v. Smith*, 845 S.W.2d 240 (Tex. 1992)
- *London Mkt. Companies v. Schattman*, 811 S.W.2d 550 (Tex. 1991)
- *Henderson v. Norfolk S. Corp.*, 55 F.3d 1066 (5th Cir. 1995)
- *McMillan v. MBank Fort Worth, N.A.*, 4 F.3d 362 (5th Cir. 1993)
- *MBank Fort Worth, N.A. v. Trans Meridian, Inc.*, 820 F.2d 716 (5th Cir. 1987)
- *CBIF Ltd. P'ship v. TGI Friday's Inc.*, 05-15-00157-CV, 2017 WL 1455407 (Tex. App.—Dallas Apr. 21, 2017, pet. filed)
- *City of Bedford v. Apartment Ass'n of Tarrant County, Inc.*, 02-16-00356-CV, 2017 WL 3429143 (Tex. App.—Fort Worth Aug. 10, 2017, pet. denied) (mem. op.)
- *Walsh v. Woundkair Concepts, Inc.*, 02-14-00395-CV, 2015 WL 510091 (Tex. App.—Fort Worth Feb. 5, 2015) (mem. op.), withdrawn and superseded on denial of reconsideration en banc, 02-14-00395-CV, 2015 WL 1544004 (Tex. App.—Fort Worth Apr. 2, 2015, pet. denied)
- *Cactus Well Serv., Inc. v. Energico Prod., Inc.*, 02-13-00186-CV, 2014 WL 6493231 (Tex. App.—Fort Worth Nov. 20, 2014) (mem. op.), opinion supplemented on denial of reh'g, 02-13-00186-CV, 2015 WL 293840 (Tex. App.—Fort Worth Jan. 22, 2015, pet. denied)
- *Crosstex N. Texas Pipeline, L.P. v. Gardiner*, 451 S.W.3d 150 (Tex. App.—Fort Worth 2014), aff'd, 505 S.W.3d 580 (Tex. 2016)
- *Jackson Walker, LLP v. Kinsel*, 518 S.W.3d 1 (Tex. App.—Amarillo 2015), aff'd and remanded sub nom. *Kinsel v. Lindsey*, 526 S.W.3d 411 (Tex. 2017)
- *Kohannim v. Katoli*, 440 S.W.3d 798 (Tex. App.—El Paso 2013, pet. denied)
- *Centerplace Properties, Ltd. v. Columbia Med. Ctr. of Lewisville Subsidiary, L.P.*, 406 S.W.3d 674 (Tex. App.—Fort Worth 2013, no pet.)
- *In re Lipsky*, 411 S.W.3d 530 (Tex. App.—Fort Worth 2013, no pet.)
- *Lipsky v. Range Prod. Co.*, 02-12-00098-CV, 2012 WL 3600014 (Tex. App.—Fort Worth Aug. 23, 2012, pet. denied) (mem. op.)
- *In re W.L.W.*, 370 S.W.3d 799 (Tex. App.—Fort Worth 2012, no pet.)
- *Hinojosa v. Tarrant County*, 355 S.W.3d 812 (Tex. App.—Amarillo 2011, no pet.)
- *Laird Hill Salt Water Disposal, Ltd. v. E. Texas Salt Water Disposal, Inc.*, 351 S.W.3d 81 (Tex. App.—Tyler 2011, pet. denied)
- *Allegiance Hillview, L.P. v. Range Texas Prod., LLC*, 347 S.W.3d 855 (Tex. App.—Fort Worth 2011, no pet.)
- *XR-5, LP v. Margolis*, 02-10-00290-CV, 2011 WL 1103794 (Tex. App.—Fort Worth Mar. 24, 2011, no pet.) (mem. op.)
- *IASIS Healthcare Corp. v. Apollo Physicians of Texas, P.A.*, 13-10-00173-CV, 2011 WL 4998644 (Tex. App.—Corpus Christi Oct. 20, 2011, no pet.) (mem. op.)
- *In re Cullar*, 320 S.W.3d 560 (Tex. App.—Dallas 2010, no pet.)
- *Conner v. Guemez*, 02-10-00211-CV, 2010 WL 4812991 (Tex. App.—Fort Worth Nov. 24, 2010, no pet.) (mem. op.)
- *Clary Corp. v. Smith*, 886 S.W.2d 570 (Tex. App.—Fort Worth 1994), rev'd, 917 S.W.2d 796 (Tex. 1996)
- *Lacquement v. Handy*, 876 S.W.2d 932 (Tex. App.—Fort Worth 1994, no writ)
- *Baccus v. Am. States Ins. Co. of Texas*, 865 S.W.2d 587 (Tex. App.—Fort Worth 1993, no writ)
- *Miller v. World Investigation & Sec. Co.*, 856 S.W.2d 594 (Tex. App.—Fort Worth 1993, writ denied)
- *McKenna Investments v. Atlas Energy Corp.*, 832 S.W.2d 651 (Tex. App.—Fort Worth 1992, no writ)
- *Shelton v. Standard Fire Ins. Co.*, 816 S.W.2d 552 (Tex. App.—Fort Worth 1991, no writ)
- *Rhea v. Williams*, 802 S.W.2d 118 (Tex. App.—Fort Worth 1991, writ dism'd)
- *Brochner v. Thomas*, 795 S.W.2d 215 (Tex. App.—Eastland 1990, no writ)
- *A.H. Belo Corp. v. S. Methodist Univ.*, 734 S.W.2d 720 (Tex. App.—Dallas 1987, writ denied)
- *Malone v. Carl Kisabeth Co., Inc.*, 726 S.W.2d 188 (Tex. App.—Fort Worth 1987, writ ref'd n.r.e.)
- *Taliaferro v. Texas Commerce Bank-Hurst*, 669 S.W.2d 172 (Tex. App.—Fort Worth 1984, no writ)

## AFFILIATIONS AND HONORS

### AFFILIATIONS

- American Bar Foundation, Fellow
- Texas Bar Foundation, Fellow
- Tarrant County Bar Association, Director, 2012-2016; Secretary-Treasurer, 2016-2017; Vice-President, 2017-2018; President-Elect, 2018-2019; President, 2019-Present
- Eldon B. Mahon Inn of Court, Emeritus Member
- American Law Institute, 2001-Present
- Texas Board of Law Examiners, 2013-2017
- Supreme Court Rules Advisory Committee, 2000-2002
- Texas Judicial Council, 1997-2003
- Council of Chief Justices, Chair, 1995-1996
- Texas Center For the Judiciary, Long-Range Planning and Budget Committees
- College For New Judges, Instructor, Texas Center for the Judiciary, 2008
- State Bar of Texas Judicial Section, Director, 2005-2008, 2009; Appellate Judges Legislative Committee, 2005-2009; Civil Justice Legislative Subcommittee, 2017-Present
- National Center For State Courts, Lawyers Committee, 2011-2015
- Texas Board of Legal Specialization, Civil Appellate Law Advisory Commission, 2007-2013
- St. Mary's University Law Alumni Association, Director, 2005-2010
- Texas Wesleyan University School of Law, Dean's Advisory Committee, Former Member
- Fort Worth Chapter of St. Mary's University Law Alumni Association, Founding Member
- Texas Lawyers for Texas Veterans Committee, Tarrant County Bar Association Chapter
- Pro Bono College of the State Bar of Texas
- College of the State Bar of Texas
- Tarrant County Young Lawyers Association, Former Director
- U.S. Navy Seabees, NMCB 1, 1973-1975

### HONORS

- Listed in *The Best Lawyers in America*<sup>®</sup>, 2014-2018, 2020
- Top Attorney in Appellate Law, *360 West* magazine, 2017-2019
- Texas Super Lawyer, Thomson Reuters, 2011-2018
- Top Attorney, *Fort Worth, Texas* magazine, 2010-2018
- Top 100 Super Lawyer in Texas, Thomson Reuters, 2014, 2016
- Top 100 Super Lawyer in DFW, Thomson Reuters, 2014, 2016
- Power Attorney recipient, *Fort Worth Business Press*, 2015
- Outstanding Law Alumnus Award (Fort Worth), St. Mary's University School of Law, 2010
- Community Servant Award, NewDay Services for Children & Families, 2009

### EDUCATION

- Board Certified in Civil Appellate Law, Texas Board of Legal Specialization, 1991-present
- Briefing Attorney to Justice Charles Barrow, Texas Supreme Court, 1982-1983
- St. Mary's University School of Law, J.D., 1982
  - Editor in Chief, *St. Mary's Law Journal*, 1981-1982
  - Teaching Assistant, Legal Research and Writing
- The University of Texas at Arlington, B.A., *summa cum laude*, 1978
- Abilene Christian University, 1971

### ADMISSIONS

- State Bar of Texas, 1982
- State Bar of New Mexico
- U.S. Supreme Court
- U.S. Court of Appeals, Federal Circuit
- U.S. Court of Appeals, Second Circuit
- U.S. Court of Appeals, Fifth Circuit
- U.S. Court of Appeals, Sixth 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

## **SPEECHES & PUBLICATIONS**

- Civil Appeals in Texas: Practicing Under the New Rules of Appellate Procedure, 49 Baylor L. Rev. 867, 1998
- Preserving Error on Appeal: A Practical Guide for Civil Appeals in Texas, 23 St. Mary's L. J. 15 (1991) (reprinted in Texas Litigation Reader (U. T. School of Law Pub., Inc., 1992)
- Questions About Appeals? Answers for Novices and Experts, Panel Discussion, Tarrant County Bar Association CLE, 2014
- Stand Your Ground: The Judiciary's Fight for Self-Preservation in Times of Economic Crisis, News for the Bar, State Bar of Texas Litigation Section, Winter, 2012
- Tips From the Masters: Instruction by Reflection, Panel Discussion, Tarrant County Bar Association CLE, 2012
- Five Hot Topics and Tips from Judicial VIPs, Panel Discussion, Tarrant County Bar Association CLE, 2012
- Veterans and the Law Seminar, Moderator, Tarrant County Bar Association CLE, 2011
- Disposition Without A Jury: Preserving Error in Bench Trials Dispositive Motions Practice, Judicial Panel, Tarrant County Bar Association CLE, 2011
- Preservation of Error, Advanced Evidence and Discovery Course, State Bar of Texas CLE, 2010
- The First Step of An Appeal: Preserving Error at Trial, Judicial Panel, Tarrant County Bar Association CLE, 2010
- Standards of Review: A Comparison of Selected Civil and Criminal Standards, College for New Judges, Texas Center for the Judiciary, 2008
- Ethics Issues as Seen from the Bench, Tarrant County Bar Association CLE, 2007
- Public Service and the Law, Commencement Address, Texas Wesleyan University Law School, December 2007
- Proposals for Restructuring Texas Appellate Courts, Tarrant County Bar Association Appellate Section CLE, 2007
- Effective Advocacy from a Judge's Point of View, Advanced Civil Appellate Course, State Bar of Texas CLE, 2005
- Court of Appeals Panel, 14th Annual Conference on State and Federal Appeals, University of Texas School of Law CLE, 2004
- Looking into the Black Box: Process, Practice and Decision-Making in the Intermediate Courts, Conference on Criminal Appeals, University of Texas School of Law CLE, 2003
- An Appellate Judge's Perspective of Written Advocacy, 21 The Advocate: State Bar Litigation Section Report 14, Fall/Winter 2002
- Preserving the Independence of Texas State Courts in the New Millennium, Denton County Lawyer, 1999
- Running the Traps: What Every Lawyer Should Know About the New Texas Rules of Appellate Procedure, Tri-County Bar Association CLE, 1998
- Argument on Appeal: Tips from the Bench on How to Avoid Losing a Winnable Appeal, Tarrant County Young Lawyers Association CLE, 1997
- The New Traps and the New Local Rules for the Second Court of Appeals: Rules for Practice in the 21st Century, Tarrant County Bar Association CLE, 1997
- Postgame Review: Briefing and Arguing Your Case in the Court of Appeals, Scoring Extra Points in Court, Tarrant County Trial Lawyers Association CLE, 1996
- The ABC's of Writing an Effective Appellate Brief, Appellate Practice In the Second District Court of Appeals: A Nuts and Bolts Seminar, Tarrant County Bar Association CLE, 1995
- Good Cause: Should the Standard be Relaxed for Late Discovery Objections Under Rule 166b(4)? 56 Tex. B. J. 448, 1993
- Preservation of Error: Post-Charge to Court of Appeals, 16th Annual Advanced Civil Trial Course, State Bar of Texas CLE, 1993

- Complex Settlement Agreements and Their Effects in the Aftermath of Elbaor v. Smith, 6th Annual Advanced DTPA/Insurance/Consumer Law Course, State Bar of Texas CLE, 1993
- The Future of Settlements After Mary Carter's Demise, 2nd Ultimate Insurance Law Seminar, State Bar of Texas CLE, 1993
- Presenting the Record to the Court of Appeals: The Second Step, Appellate Practice In the 2nd District Court of Appeals: A Nuts and Bolt Seminar, Denton County Bar Association CLE, 1993
- Contribution and Partial Settlement Credit in Post-Tort Reform Mixed Theory Cases: Sterling and Beyond, 1 Tex. Ins. L. J. 77 (1992)
- Mandamus: Standards of Review, Procedures and Preservation of Error, 15th Annual Advanced Civil Trial Course, State Bar of Texas CLE, 1992
- Requesting the Partial Settlement of Facts: Practical Tips for Avoiding the Traps of Rule 53(d), The Appellate Advocate, Fall 1991, at 6
- Lender Liability In Texas (P.E.S.I., Chapter 1, 1st and 2d eds. 1987, 1988)