

SCOTT ROTHENBERG
Law Offices of Scott Rothenberg
2777 Allen Parkway, Suite 1000
Houston, Texas 77019-2165

(713) 667-5300 (telephone)

scottr35@aol.com (e-mail)

(713) 667-0052 (telecopier)

PERSONAL

Married to Lisa Marie Auflick Rothenberg - 10/18/87 to present.
Four sons: Daniel, age 19; Jared, age 18; Benjamin, age 17 and Jacob, age 8.
Past President of 5550 North Braeswood Council of Co-Owners, Inc.
Past Director of Maplewood North-South Community Improvement Association.
Certified Little League Umpire, Little League Baseball, Waco, Texas.
Past-President, Braeburn Little League, Houston, Texas.
Past-Director, Braeburn Little League, Houston, Texas.

EMPLOYMENT

March 1994 to present	Sole proprietor/partner - Law Offices of Scott Rothenberg and Rothenberg & Gunn (1996-97).
March 1988 to Feb. 1994	Mithoff & Jacks, L.L.P., Houston, Texas Head of Appellate Section.
June 1985 to March 1988	Fulbright & Jaworski, Houston, Texas. Associate Attorney in Litigation and Appellate sections.

BOARD CERTIFICATION

Board Certified by the Texas Board of Legal Specialization in Civil Appellate Law - Dec., 1992.
Recertified by the Texas Board of Legal Specialization in Civil Appellate Law - 1997 to 2012.

PROFESSIONAL HONORS

College of the State Bar of Texas, 1994 Outstanding Continuing Legal Education Article of the Year, "Advanced Legal Research-- 15 Tips and 20 Traps." Author and Speaker.

Recipient, State Bar of Texas President's Award in Appreciation for Outstanding Contributions through Distinguished Service to the Lawyers of Texas - General Session State Bar of Texas Annual Meeting, June 1999.

"AV" rated by Martindale-Hubbell Law Directories - 1997 to present.

Named by Texas Monthly Magazine as a Texas Appellate "Super Lawyer," November 2004, <http://www.superlawyers.com/texas.asp>.

Named by Texas Monthly Magazine as a Texas Appellate "Super Lawyer," November 2003, <http://www.superlawyers.com/texas.asp>.

Highest Rated Speaker, South Texas College of Law, "Tips and Tactics in Handling Appeals," panel discussion, December 2000.

Highest Rated Author, University of Texas 10th Annual Seminar on Handling State and Federal Appeals, Continuing Legal Education Program, "Technology and Legal Research," October, 2000.

Highest Rated Speaker, University of Texas 10th Annual Seminar on Handling State and Federal Appeals, Continuing Legal Education Program, June 8, 2000.

Published paper dealing with appellate review of Daubert/Robinson challenges disseminated by Harris County District Court chief legal counsel to all 33 district court judges in Harris County, Texas, October, 1999.

Assistant editor of law review article written by Justice Harvey Brown on Qualification of Expert Witnesses, published in University of Houston Law Review in two parts, Fall-Winter, 1999-2000.

Highest Rated Speaker, Houston Bar Association Continuing Legal Education, "Preservation of Error - 50 Ways to Keep your Appellate Lawyer Happy," December 1999, Author and Speaker.

Highest Rated Speaker, Houston Bar Association Continuing Legal Education, Evidence and Discovery Institute, February 1999.

Highest Rated Author and Second Highest Rated Speaker, U.T. State and Federal Appeals Continuing Legal Education Program 1997.

Second Highest Rated Co-speaker, SBOT, Advanced Civil Appellate Practice Course, Sept., 1997.

Highest Rated Speaker, HBA CLE series, Preservation of Error, July, 1997.

Highest Rated Speaker, U.T. State and Federal Appeals Continuing Legal Education Program 1996.

PROFESSIONAL ACTIVITIES

December, 2007 Planning Committee, University of Texas School of Law, State and Federal Appeals Continuing Legal Education Program.

September, 2007 State Bar of Texas, Appellate Section, Secretary.

September, 2007 State Bar of Texas, Appellate Section, Executive Council.

January, 2007 Planning Committee, University of Texas School of Law, State and Federal Appeals Continuing Legal Education Program.

February, 2006 Texas Bar Foundation, Life Fellow.

February, 2005 Planning Committee, State Bar of Texas, Advanced Civil Appellate Practice Course.

September, 2004 State Bar of Texas, Appellate Section, Third Year Council Person

September, 2003 State Bar of Texas, Appellate Section, Second Year Council Person

May, 2003	First Past-Chair, Houston Bar Association Appellate Practice Section
December, 2002	Appointed to co-chair of Technology Committee, State Bar of Texas Appellate Practice Section.
September, 2002	Appointed to Council of the State Bar of Texas Appellate Practice Section.
May, 2002	Chair, Houston Bar Association, Appellate Practice Section.
January, 2002	Member, Sup. Court of Tx, Unauthorized Practice of Law Comm.
September, 2001	Chair, State Bar of Texas, Appellate Practice and Advocacy Section, Annual Meeting Committee.
June, 2001	Chair Elect, Houston Bar Association, Appellate Practice Section.
May, 2001	Member, Planning Committee, State Bar of Texas, Professional Development Program, Advanced Civil Appellate Practice Course.
June, 2000	Vice-Chair Elect, Houston Bar Association, Appellate Practice Section.
March, 2000	Member, Planning Committee, State Bar of Texas, Professional Development Program, Advanced Civil Appellate Practice Course.
February, 2000	Member, Planning Committee, Houston Bar Association, Annual Civil Appellate Bench Bar Conference.
December, 1999	Member, Planning Committee, University of Texas School of Law 10th Annual Conference on State and Federal Appeals.
June, 1999	Secretary, Houston Bar Association, Appellate Practice Section.
May 1999	Member, Seminar Subcommittee, Houston Bar Association, Continuing Legal Education Department.
April 1999	Member, Planning Committee, Houston Bar Association, Continuing Legal Education Department.
March 1999	State Bar of Texas, Prof. Development Program, Member of Planning Committee for Advanced Civil Appellate Practice Course.
September 1998	State Bar of Texas, Appellate Section Annual Meeting, Speaker.
June 1998	Houston Bar Association, Appellate Practice Section, Treasurer.
May 1997	Houston Bar Association, Appellate Practice Section, Chair, Continuing Legal Education Committee.

April 1997	State Bar of Texas, Appellate Practice Section, Annual Meeting Planning Committee.
April 1996	State Bar of Texas, Appellate Practice Section, Annual Meeting Planning Committee.
June 1996	Long Range Planning Committee, State Bar of Texas, Appellate Practice and Advocacy Section.
May 1996	Houston Bar Association, Appellate Practice Section, Chair, Membership Committee.
September 1995	Appointed Special Assistance Disciplinary Counsel by the Commission for Lawyer Discipline, State Bar of Texas.
August 1995	State Bar of Texas, Appellate Practice Section, Annual Meeting Planning Committee.
June 1995	Appointed to State Bar of Texas, Appellate Practice and Advocacy Section, Annual Meeting Committee.
May 1995	Councilmember, Houston Bar Association, Appellate Practice Section.
January 1995	West Publishing Company, National CD-ROM Legal Advisory Council.
1993 to 1995	Member, Texas Trial Lawyers Association Amicus Curiae Committee.
June 1989 to June 1991	Director, Houston Trial Lawyers Association.
August 1988 to Present	Mediator, Houston Bar Association, Moderated Settlement Conference Program.

PUBLICATIONS ASSOCIATED WITH SPEECHES

May 2008	University of Texas School of Law, 18 th Annual Conference on State and Federal Appeals “Ethics Traps for Appellate Lawyers,” Author & Speaker.
April 2008	Houston Bar Association, Bi-Annual Criminal Trial and Appellate Bench Bar Conference, “Ethics Jeopardy,” a 1 1/4 hour review of ethical rules, regulations and case authorities important to attorneys and judges. Author and Speaker.
February 2008	University of Texas School of Law, How to Establish, Organize and Operate a Successful Law Firm CLE Program, “Ten Mistakes and the Important Lessons They Taught Me.”

September 2007 State Bar of Texas, Advanced Civil Appellate Practice Course, Austin, Texas, "Ethics Presentation," Author and Speaker.

April 2007 Houston Bar Association, Bi-Annual Civil and Appellate Bench Bar Conference, "Ethics Jeopardy," a 1 1/4 hour review of ethical rules, regulations and case authorities important to attorneys and judges. Author and Speaker.

September 2006 State Bar of Texas, Advanced Civil Appellate Practice Course, Austin, Texas, "Ethics Presentation," Author and Speaker.

June 2006 University of Texas School of Law, 16th Annual Conference on State and Federal Appeals "Ethics of Fee Agreements," Author & Speaker.

February 2005 Dallas Bar Association Appellate Section, Inadvertent Briefing Waiver in Intermediate Appellate Courts, Author and Speaker.

November 2004 Recent Trends in Legal Malpractice and Grievance Litigation - Author and Speaker.

June 2004 University of Texas School of Law, 14th Annual Conference on State and Federal Appeals-"Tripping on the TRAPs," Author and Speaker.

June 2003 University of Texas School of Law, 13th Annual Conference on State and Federal Appeals - "Damages Update," Author and Speaker.

September 2002 State Bar of Texas, Annual Meeting in Conjunction with Advanced Civil Appellate Practice Section. Moderator, writer and announcer for 2002 Appellate Lawlympics.

May 2002 University of Texas School of Law, 12th Annual Conference on State and Federal Appeals - "Ten Worst Traps," Author and Speaker.

June 2001 Houston Bar Association, Ethics Panel Discussion, "Practical Applications of Ethical Rules to Appellate Practice." Panelist.

December 2000 South Texas College of Law, Professional Development Program, "Tips and Tactics in Handling Appeals," a panel discussion, Panelist.

September 2000 State Bar of Texas, Professional Development Program, Advanced Civil Appellate Practice Course, "Ten Worst Traps," Author and Speaker.

September 2000 State Bar of Texas Professional Development Program, Advanced Civil Appellate Practice Course, "Appellate Squares," Participant.

August 2000 Dallas Bar Association, Energy Law Section, Review of Oil and Gas Law XV, "Technology and Litigation: Primary and Secondary Resources on the Internet," Author and Speaker.

June 2000 University of Texas School of Law, 10th Annual Conference on State and Federal Appeals - "Mastering Technology in Legal Research," Author and Speaker.

December 1999 Houston Bar Association CLE program, "50 Ways to Keep Your Appellate Lawyer Happy- Preservation of Error." Author & Speaker.

September 1999 State Bar of Texas, Professional Development Program, Advanced Civil Appellate Practice Program, "Use of Expert Witnesses after Daubert," Author and Speaker.

June 1999 University of Texas School of Law, 9th Annual Conference on State and Federal Appeals - "Technology Update," Author and Speaker.

April 1999 State Bar of Texas, In-house continuing legal education program, "Representing SBOT Lawyers in Federal Court Litigation," Author and Speaker.

March 1999 Houston Bar Association CLE Committee, "Practicing Before the 1st and 14th Courts of Appeals," Co-author and Co-speaker.

February 1999 Houston Bar Association, Evidence and Discovery Institute, "Champagne Discovery on a Beer Retainer," Author and Speaker.

December 1998 South Texas College of Law, Appellate Law for Trial Lawyers, "Enforcing and Staying the Judgment While on Appeal," Author and Speaker.

September 1998 State Bar of Texas, Professional Development Program, Advanced Civil Appellate Program, "Advanced Legal Research." Speaker.

May 1998 University of Texas School of Law, 8th Annual Conference on State and Federal Appeals - "Computer Based Advanced Legal Research," Author and Speaker.

March 1998 Houston Bar Association, Appellate Practice Section, Practicing in the 1st and 14th Courts of Appeals; Moderator of Judicial Panel Discussion involving Chief Justice Murphy, Chief Justice Schneider, Justices Andell, O'Connor, Anderson and O'Neill.

September 1997 State Bar of Texas, Professional Development Program, Fall 1997, Advanced Civil Appellate Practice Course, "How Appellate Attorneys can Make Life Easier for Appellate Judges and How Appellate Judges can Make Life Easier for Appellate Attorneys," one hour presentation with Justice Murry Cohen of the First Court of Appeals.

July 1997 State Bar of Texas, Professional Development Program, Understanding the New Texas Rules of Appellate Procedure - "Legal Research of Past and Present Rules." Author and Speaker.

July 1997 Houston Bar Association CLE program, "50 Ways to Keep Your Appellate Lawyer Happy - Preservation of Error." Author and Speaker.

June 1997 University of Texas School of Law, 7th Annual Conference on State and Federal Appeals - "Technology for Appellate Practice: What's Hot and What's Not." Author and Speaker.

April 1997 Tarrant County Appellate Practice Section, Annual Continuing Legal Education Seminar - "Advanced Legal Research using Computer-Based Resources" Author and Speaker.

February 1997 Baylor U. Law Sch., Annual Lit. Seminar, "50 Traps for Trial Lawyers from the Appellate Lawyer's Point of View," Author & Speaker.

September 1996 State Bar of Texas, Professional Development Program, Fall 1996, Advanced Civil Appellate Practice Course, "Ten Worst Traps," Author and speaker in Austin, Texas.

June 1996 University of Texas School of Law, 6th Annual Conference on State and Federal Appeals - "Advanced Legal Research: Harnessing Technology for Appellate Practice." Author and speaker for the seminar program.

September 1995 1st and 14th Court of Appeals Annual In-House Continuing Legal Education Program, "Advanced Legal Research." Author and speaker for Judges, Research Attorneys and Briefing Attorneys.

September 1995 State Bar of Texas, Professional Development Program, Fall 1995, Advanced Civil Appellate Practice Course, "Ten Worst Traps," Author and speaker in San Antonio, Texas.

August 1995 State Bar of Texas, Professional Development Program, Fall 1995, Advanced Civil Trial Course, "Preservation of Error Prior to Verdict," Author and speaker in Houston, Dallas & Austin.

March 1995 State Bar of Texas, Professional Development Program, Fall 1995, Advanced Civil Appellate Practice Course. Selected by course director as a member of the planning committee.

March 1995 South Texas College of Law, participated in Continuing Legal Education Program to critique and evaluate attorneys' performance in mock charge conference -- held in May, 1995.

February 1995 State Bar of Texas, Professional Development Program, Summer 1995, Advanced Civil Trial Course. Planning committee member.

November 1994 National Association of Employment Law Attorneys, Houston Chapter, Monthly Continuing Education seminar, "Preservation of Error During Trial."

September 1994	State Bar of Texas, Professional Development Program, Fall 1994, Advanced Appellate Practice Course, "Advanced Legal Research - 15 Traps and 20 Tips." Selected by course director as a member of the planning committee.
September 1992	State Bar of Texas, Professional Development Program, Advanced Appellate Practice Course, Fall, 1992, "Research in Appellate Practice-- A Workshop." Published paper & spoke.
October 1991	Nueces County Association of Legal Assistants, 1991 Legal Education Fall Seminar, "Champagne Discovery on a Beer Retainer." Published paper and spoke for 60 minutes.
September 1991	State Bar of Texas, Professional Development Program, Advanced Appellate Practice Course for 1991, "Research in Appellate Practice- - What You Don't Know Can Hurt You."
February 1990 & '91	State Bar of Texas, Professional Development Program, Discovery Seminar, "Champagne Discovery on a Beer Retainer-- Low Cost Alternatives for Discovery." Published paper and spoke on two different occasions. Member of seminar planning committee.
September 1988	State Bar of Texas, Professional Development Program, Preparing and Trying the Automobile Collision Case Seminar, "The Texas Personal Automobile Policy." Published paper and speaker.
November 1986	State Bar of Texas, Professional Development Program, Evidence in Business Litigation, "Obtaining and Using Computer Generated Evidence." Co-author of paper and speaker.

OTHER PUBLICATIONS

September 2003	"A User Friendly Guide to House Bill 4," Texas Bar Journal, Author.
December 1997	South Texas College of Law, Texas Trial Lawyers' Institute, "Preservation of Error after Verdict."
March 1993	Houston Bar Association, Serialized Institute, Trial Practice and Procedure, "The Jury Charge." Co-author of seminar materials.
November 1991	Texas Trial Lawyers Association, Medical Malpractice Conference, "Hospital Responsibility for Its Staff Physicians." Co-author.
October 1990	South Texas College of Law, 2nd Annual Medical Malpractice Conference, "Litigating the Brain Damaged Baby Case." Co-author of publication.
January 1990	Law Education Institute, Inc., 1990 Civil Litigation Institute, "Final Argument." Co-author of seminar publication.

June 1989 State Bar of Texas, Prof. Dev. Prog., The Ultimate Trial Notebook, "Voir Dire-- Plaintiff's Perspective." Co-author.

May 1989 State Bar of Texas, Professional Development Program, Medical Malpractice for Lawyers and Legal Assistants, "Anesthesiological, Radiological and Surgical Malpractice-- Plaintiff's Perspective." Co-authored seminar publication.

June 1988 State Bar of Texas, Professional Development Program, Advanced Personal Injury Law Course, "Voir Dire-- Plaintiff's Perspective." Co-authored seminar publication.

EDUCATION

January 1986 J.D. University of Houston, College of Law.

May 1982 Bachelor's Degree in Political Science with honors, State University of New York at Albany.

SOME CASES THAT I HAVE HANDLED IN WHOLE OR IN PART

Universal Risk Insurance Services v. Citizens Property Ins. Co., No. 2005-28694, In the 215th Judicial District Court of and for Harris County, Texas (obtained \$950,000 settlement of strongly disputed claim against largest insurance company in the State of Florida).

Hooker v. Nguyen, No. 14-04-00238-CV (Tex. App.– Houston [14th Dist.] 2005, pet. dismissed) (reversal and rendition of quarter-million dollar fraud judgment into \$100,000 judgment for client).

Rene Mailhot vs. Noma Mailhot, No. 01-02-00808-CV (Tex. App.– Houston [1st Dist.] 2003, no petition) (affirmance of trial court judgment arising out of divorce and property dispute).

Cynthia Vanderweyst v. Adolph G. Boudreaux, No. 01-02-00928-CV (Tex. App.– Houston [1st Dist.] 2003, petition denied) (reversal and remand of lawsuit against Harris County Clerk for negligence in performance of official duties).

Fred Frazier and Kooney X-Ray, Inc. vs. James B. Havens et al.; No. 14-01-00214-CV (Tex. App.– Houston [14th Dist.], 2003 no petition) (reversal and remand of monetary judgment based upon alleged breach of partner fiduciary duty).

Progressive Youth Services, Inc. and Southeast Community Center Inc., f/k/a Progressive Youth Services, Inc. vs. Dallas Fire Insurance Co.; No. 01-00-936-CV (Tex. App.– Houston [1st Dist.] 2003, pet. denied) (reversal and rendition of judgment on breach of duty to defend) (settled for \$1.25 million after trial).

Spring Custom Log Homes, Inc. v. Bob Brent Berry, Administrator, No. 14-00-00138-CV (Tex. App.– Houston [14th Dist.] 2002, no petition) (reversal of money judgment to Administrator of an estate).

Bayer Corp. v. H. B. Zachry Co., No. 01-00-00962-CV (Tex. App.– Houston [1st Dist.] 2002, no pet.) (affirmance of trial court judgment based on jury verdict that Bayer Corp. take nothing in a \$4

million chemical plant electrical outage lawsuit).

Brown v. Nationsbank, 188 F.3d 579 (5th Cir. 1999) (Fifth Circuit Court of Appeals recognizes new federal constitutional cause of action against government officers resulting from investigation by F.B.I. in Operation Lightning Strike).

Amilee Wendt v. The Lamar Council of Co-Owners, Inc.; Truly Nolen of America, Inc., Individually, and d/b/a Truly Nolen Exterminating, Inc.; and Alice Lossen; No. 01-99-00660-CV (Tex. App.-- Houston [1st Dist.] 1999, no pet.) (reversal of trial court's grant of take-nothing summary judgment).

Gates v. Astroworld, Inc. and Six Flags Theme Parks, Inc., No. 01-98-00246-CV (Tex. App.-- Houston [1st Dist.] 1999, pet. denied) (affirmance of take-nothing judgment involving factual/legal sufficiency, admission and exclusion of evidence, court's charge and review of sanctions issues).

Galli v. Midgett, No. 01-96-914-CV (Tex. App.-- Houston [1st Dist.] 1998, pet. denied) (reversal of \$1.2 million dollar legal malpractice judgment against two attorneys and a legal assistant).

Hicks v. Humble Oil Corp., 970 S.W.2d 90 (Tex. App.-- Houston [14th Dist.] 1998, pet. denied) (affirmance of take-nothing summary judgment on behalf of Humble Oil & Refining Company and Exxon Corporation in multi-million dollar environmental contamination case).

Wade v. Commission for Lawyer Discipline, 961 S.W.2d 366 (Tex. App.-- Houston [1st Dist.] 1997, pet. dismissed) (Represented the State Bar of Texas Commission for Lawyer Discipline in an appeal from a suspension. The court of appeals affirmed the trial court's judgment.).

Higginbotham v. State Farm Mutual Automobile Insurance Company, 103 F.3d 456 (5th Cir. 1997) (affirmance in part of judgment seeking bad faith actual and exemplary damages).

S.H. v. National Convenience Stores, Inc. d/b/a Stop-N-Go, 936 S.W.2d 406 (Tex. App.-- Houston [1st Dist.] 1996, no writ) (affirmance of take nothing judgment in favor of Defendant in premises liability kidnapping/rape lawsuit).

Monroe S. and Elizabeth C. Powell v. State Farm Fire & Casualty Co., No. E-141,014 in the 172nd Judicial District Court of and for Jefferson County, Texas. On behalf of State Farm and one of its insurance adjusters, handled a motion for summary judgment, motion for directed verdict, prepared jury charge, handled charge conference in a \$13 million lawsuit resulting in take-nothing judgment.

Lentino v. Cullen Bank & Trust Co., 919 S.W.2d 743 (Tex. App.-- Houston [14th Dist.] 1996, writ denied) (reversal of \$8.6 million breach of contract and fraud judgment against two doctors--remand for consideration of multi-million dollar usury counterclaim).

Hazen v. Cooper & Tradd, et al., No. 14-93-01111-CV (Tex. App.-- Houston [14th Dist.] 1994, writ denied), cert. denied, 116 U.S. 1677 (May 13, 1996) (affirmance of trial court's dismissal of lawsuit for want of prosecution and refusal to recuse trial court judge).

Plaza Court, Ltd., et al. v. West, 879 S.W.2d 271 (Tex. App.-- Houston [14th Dist.] 1994, original proc.) (writ of mandamus conditionally granted against Judge David West-- I represented defendants in an appeal of a \$10 million judgment arising out of a bank loan).

Duncan Buick Co. v. Dollins, 10-93-934-CV (Tex. App.-- Waco 1993, no writ) (represented

defendant in D.T.P.A. case arising out of the sale of an automobile-- judgment for plaintiff reversed and rendered on each of three separate rendition points).

Decker v. Lindsay, 824 S.W.2d 247 (Tex. App.-- Houston [1st Dist.] 1990, orig. proc.) (writ granted - attorneys cannot be forced to mediate in good faith against their judgment).

Shell Western E & P, Inc. v. Oliver, 751 S.W.2d 195 (Tex. App.--Dallas 1988, orig. proc.).

Mole v. Millard, 762 S.W.2d 251 (Tex. App.-- Houston [1st Dist.] 1989, orig. proc.).

Young v. Clark, 732 S.W.2d 20 (Tex. App.-- Houston [14th Dist.] 1987, writ ref'd n.r.e.).

Carr v. Brasher, 776 S.W.2d 567 (Tex. 1989).

Warner v. H.E. Butt Grocery Co., 820 S.W.2d 819 (Tex. App.-- Waco 1991), **reversed**, 845 S.W.2d 258 (Tex. 1992).

State v. Houth, 845 S.W.2d 853 (Tex. Crim. App. 1992).