

Legislative and Campaign Law

Section of The State Bar of Texas

SUMMER 2020

MESSAGE FROM THE CHAIR

Greetings! I'm Royce Poinsett, and I am honored to serve as the Chair of our Section for 2020-2021, alongside the Officers and Councilmembers listed below. Thank you for being a member of this Section, and for supporting the development of a strong, professional community of legislative and campaign law attorneys in Texas.

And many thanks to Immediate Past Chair [Elizabeth Ross Hadley](#) for her hard work in ensuring a successful 2019-2020.

Our section was created in 2014, and has quickly become one of the fastest growing and most dynamic sections in Texas. In the midst of the challenges of COVID-19, our section is committed to providing our membership with continued high-value offerings in the form of informative newsletters, substantive CLE courses and fun social/networking events.

The best source for updated information on Section activities is our website at: www.legislativeandcampaignlaw.com

You can also follow the Section on our new LinkedIn page at www.linkedin.com/company/lcl-section

I look forward to seeing many of you in the year to come. Please reach out to me and the other officers and council members anytime we can be of assistance.

Regards,

Royce Poinsett
Chair, Legislative and Campaign Law Section
Principal, Poinsett PLLC
royce@poinsett.co



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NEW SECTION OFFICERS AND COUNCIL MEMBERS ANNOUNCED

The following section officers and council members were recently elected:

2020-2021 Officers:

Chair:	Royce Poinsett, Poinsett PLLC
Chair-Elect:	Hugh Brady, UT School of Law TX House Parliamentarian
Treasurer:	J Pete Laney, Law Offices of J Pete Laney
Secretary:	Thomas A. Forbes, Butler Snow LLP
Immed. Past Chair:	Elizabeth Ross Hadley, Greenberg Traurig LLP

Section Council Members:

Terms Expiring 2021:

Hon. W. Royal Furgeson, Furgeson Malouf Law PLLC
Tamoria R. Jones, Texas Charter Schools Association
Eric C. Opiela, Eric Opiela PLLC

Term Expiring 2022:

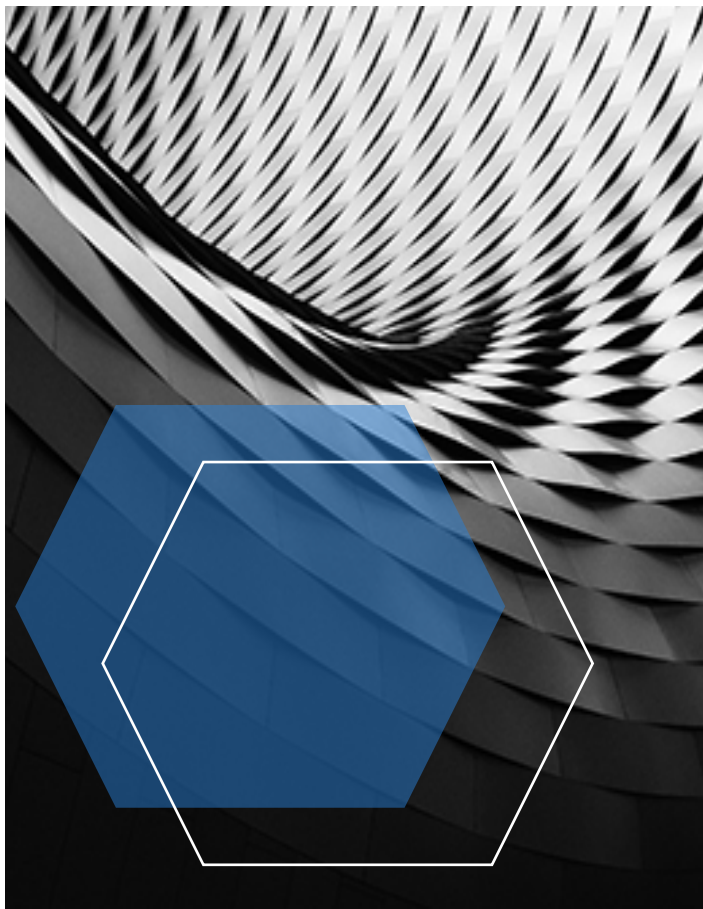
Juliana Cruz Kerker, HCA Healthcare
Rahul C. Sreenivasan, Chief of Staff to State Rep. Armando Walle
Linda K. Townsend, CHRISTUS Health
Trent Townsend, Imperium Public Affairs

Term Expiring 2023:

Daniel A. Petalas, Duggins Wren Mann & Romero, LLP
Ender Reed, Harris County
Hon. Kirk P. Watson, University of Houston Hobby School of Public Affairs

INTERESTED IN SERVING THE SECTION?

If you are a member of the Section and want to get more involved, we encourage you to reach out. We are always looking for dedicated, motivated section members willing to serve as future Officers, Councilmembers and Committee volunteers. Often the best way to get involved is to volunteer to assist with organizing Section CLE or Social events. If you are interested, reach out to Chair Royce Poinsett at royce@poinsett.co



SPECIALIZATION UPDATE

Our Section continues to work with the Texas Board of Legal Specialization (TBLS) to establish the new certification in Legislative and Campaign Law. The Texas Supreme Court issued an order in December 2019 approving the certification, the TBLS has begun accepting applications, and a committee is now drafting the certification exam. For information about certification, visit: <https://www.tbbs.org/specialtyarea/LC>

The deadline for applying for the certification in this inaugural cycle passed on May 18, 2020. But we encourage interested attorneys to review the information online to prepare for next year's cycle.

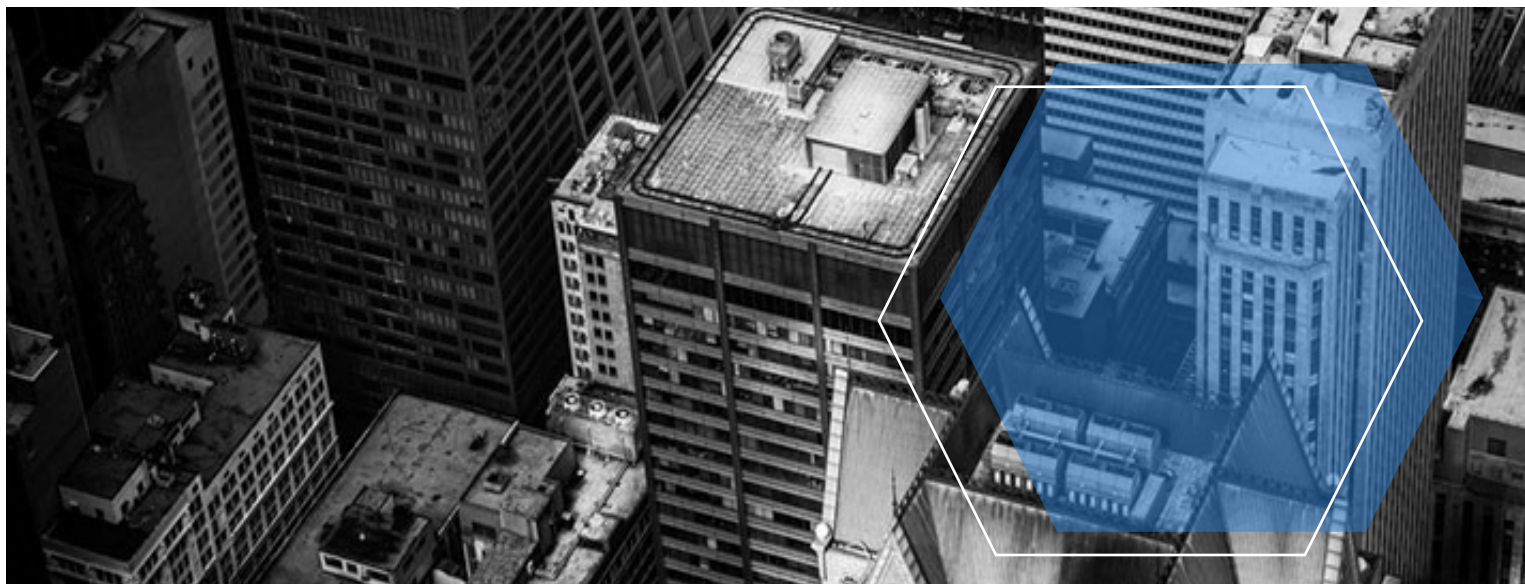
We will share updates with you as the certification process develops.

PRACTICE ALERT: LOBBY “PRESENCE” AT ONLINE EVENTS

In recent EAO-556 (<https://www.ethics.state.tx.us/opinions/partVI/556.html>) the Texas Ethics Commission opined on an intriguing issue facing lobbyists in the time of COVID-19.

The requestor asked whether a registered lobbyist may be considered “present” when meeting with legislators remotely via videoconferencing software such as Zoom or Apple FaceTime, where the lobbyist organizes, pays for, and attends the virtual meeting that includes food and/or beverages. This request required the Commission to interpret the meaning of the word “present” as it is used in Chapter 305 of the Texas Government Code. Specifically, Chapter 305 prohibits lobbyists from making certain expenditures to communicate directly with members of the legislative or executive branch, including expenditures on food or beverages, unless the lobbyist is “present at the event.” Tex. Gov’t Code §§ 305.006(f), 305.024(a).

The Commission reviewed the language of the statute, and looked to other jurisdictions for guidance. While offering that “We understand the circumstances during this particular time in history are unique,” the Commission concluded that to be “present” a registered lobbyist “...must share a physical location with the recipient of the expenditure.”



OTHER RECENT ETHICS ADVISORY OPINIONS

EAO No. 554 <https://www.ethics.state.tx.us/opinions/partVI/554.html>

Issue: Whether a contribution from a federal political committee to a federal “Super PAC” is a political expenditure made “in connection with elections voted on in Texas.”

Summary: In our opinion, a contribution from a federal political committee to a federal Super PAC is a political expenditure made in connection with elections voted on in Texas only if the federal political committee intends for the contribution to be used to support or oppose a candidate or measure in an election voted on in Texas. Conversely, a contribution to a Super PAC for a general or unspecified purpose is not a political expenditure made in connection with elections voted on in Texas.

EAO No. 555 <https://www.ethics.state.tx.us/opinions/partVI/555.html>

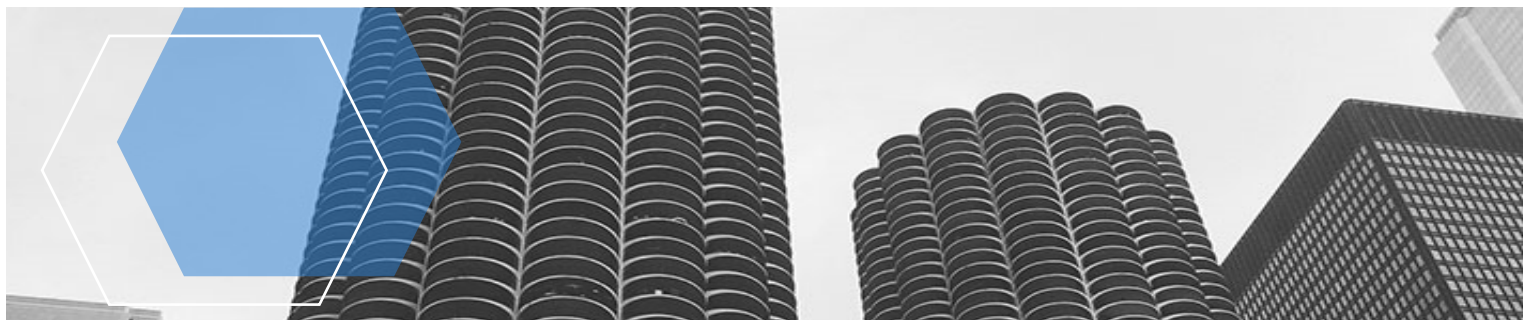
Issue: Whether a judge may use political contributions to pay for equipment and services in connection with producing an educational podcast for practicing lawyers.

Summary: A judge may use political contributions to pay ordinary and necessary expenses incurred in connection with producing an educational podcast for practicing lawyers.

EAO-556 <https://www.ethics.state.tx.us/opinions/partVI/556.html>

Issue: Whether a registered lobbyist can be “present” at an event via videoconference technology.

Summary: No. To be “present” for purposes of Texas Government Code Sections 305.006(f) or 305.024(a), a registered lobbyist must share a physical location with the recipient of the expenditure.



TEXAS SUNSET UPDATE

The Texas Sunset Advisory Commission recently posted staff reports for the [Texas Department of Agriculture](#), [Texas Boll Weevil Eradication Foundation](#), [Prescribed Burning Board](#), [Early Childhood Health and Nutrition Interagency Council](#), [Texas Department of Licensing and Regulation](#), and [Texas Parks and Wildlife Department](#).

On August 4, 2020 the Commission met to discuss how to conduct future hearings in the midst of COVID-19. The Commission was split on the question of whether to proceed with online or in-person meetings, and was not able to reach consensus, so all Commission meetings have been postponed until further notice. You can visit the Commission's [meetings page](#) for updated meeting information as it becomes available.

SECTION MEMBERS IN THE NEWS



Tamoria Jones, a Section Councilmember, is now Senior Attorney and Director of Regulatory Affairs at Texas Charter Schools Association. She previously served as Chief of Staff to State Rep. Harold Dutton.



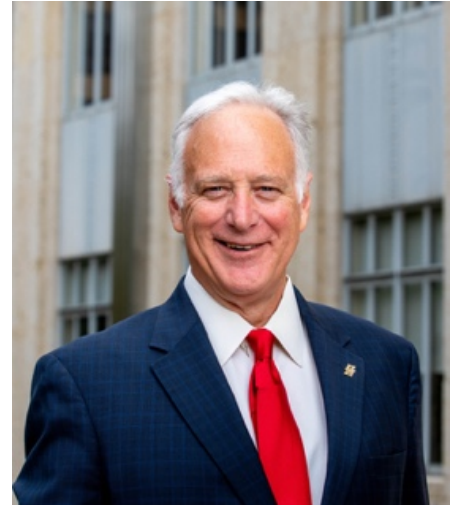
James E. "Trey" Trainor III was recently confirmed by the U.S. Senate to the Federal Election Commission, following his nomination by President Trump. Trainor previously practiced law at the Trainor Law Firm in Austin.



Martha Landwehr has been named Senior Manager of State Government Affairs at BASF. She previously served as Senior Advisor to TCEQ Commissioner Emily Lindley.

SECTION MEMBER SPOTLIGHT: THE HONORABLE KIRK P. WATSON

One of our Section's new Councilmembers is a familiar face to Legislative and Campaign Law practitioners. We are pleased and honored that the Honorable Kirk Watson has generously agreed to serve on the Section's Council.



Kirk Watson has been described by Texas Monthly as “A man with a vision of what the community wants, and the moxie to carry it out.” He has been immersed in public policy in Texas for the past three decades, serving first as an appointee of Gov. Ann Richards before being elected mayor of Austin in 1997. First elected to the Texas Senate in 2006, he represented the Austin area for 13 years.

Watson has recently been selected to be the Founding Dean of the University of Houston Hobby School of Public Affairs and began his position on May 1, 2020.

Watson's policy experience spans local and state government. As Senator, he championed education, health care, transportation and government transparency. During his tenure in the Senate, he served as a member and vice- chair of multiple standing and special committees. Most recently he was Vice-Chair of the Senate Committee on Nominations and also served on the committees overseeing State Finance, Education, Higher Education and the Sunset Advisory Commission. His peers elected him President Pro Tempore of the Senate in 2019.

In 2011, Senator Watson laid out 10 Goals in 10 Years to positively impact the health and economy of Austin and Travis County. The results have been transformative, including the creation of the Dell Medical School and a new modern teaching and safety-net hospital, Dell Seton Medical Center, both at the University of Texas. The American Medical Association recognized Senator Watson's contribution to health care with the prestigious Dr. Nathan Davis Award for Outstanding Government Service in 2017.

Building on those and other successes, Senator Watson launched a community-based effort to develop a center for world-class brain health treatment, research and education and has been honored by the Meadows Mental Health Policy Institute and NAMI Austin for his leadership.

In his book, *Austin Unlimited: The People, Place, Passion and Prospects*, Watson chronicles the economic evolution of Austin through the lens of his time in public office.

Prior to elected office, from 1991 to 1993, Watson served as Chair of the Texas Air Control Board, the state agency that was charged with addressing air quality in Texas. He was Vice-Chair of the committee that oversaw the

consolidation of the Texas Air Control Board with the Texas Water Commission creating the Texas Natural Resources Conservation Commission, now known as the Texas Commission on Environmental Quality.

He also has served as Chair of both the Greater Austin Chamber of Commerce and the Texas Advisory Board of Environmental Defense, and he has been a member of the Executive Committee of the State Bar of Texas. He has chaired the Capital Area Metropolitan Planning Organization, the primary transportation planning agency for Central Texas.

Among many other recognitions, Senator Watson has been named one of the state's "10 Best Legislators" by Texas Monthly. He is a recipient of the prestigious President's Citation from the University of Texas at Austin. Watson also received the Pro Texana Medal of Service from Baylor University and the Baylor Line Foundation (formerly the Baylor Alumni Association) named him a Distinguished Alumnus. The Freedom of Information Foundation of Texas gave him its award as the Open Government Lawmaker of the Year and the Texas Press Association named him a Friend of the First Amendment for "his steadfast support of free speech and open government." He's also been named Austinite of the Year by the Greater Austin Chamber of Commerce and received the W. Neal Kocurek Award for Healthcare Advocacy from People's Community Clinic.

Senator Watson graduated from Baylor University and graduated first in his law school class at Baylor Law School. He has been named an outstanding young alumnus of Baylor, Young Baylor Lawyer of the Year, and the Outstanding Young Lawyer of Texas. He was most recently of counsel at the law firm Husch Blackwell LLP.