

BYRON C. KEELING

1500 McGowen, Suite 220
Houston, Texas 77004
(832) 214-9900

EDUCATION

University of Illinois College of Law, Champaign, Illinois.
LL.M. (May 1994).

Baylor University School of Law, Waco, Texas.
J.D. (February 1990). *Cum Laude*.
Baylor Law Review Managing Editor (Fall & Winter 1989).

Baylor University, Waco, Texas.
B.A.: History/Law (August 1988). *Magna Cum Laude*.
Phi Beta Kappa.

EMPLOYMENT

Keeling & Downes, P.C., Houston, Texas.
Shareholder, December 2004-Present.
Areas of practice: Commercial Litigation and Appeals.

Holman, Keeling & York, P.C., Houston, Texas.
Member, January 2002-November 2004.

Clements, O'Neill, Pierce, Nickens & Wilson, L.L.P., Houston, Texas.
Attorney, June 1994-December 2001.
Partner in firm from January 1, 2000, to December 31, 2001.

University of Illinois College of Law, Champaign, Illinois.
Visiting Instructor, August 1992-June 1994.

The Honorable Sam D. Johnson, United States Court of Appeals for the Fifth Circuit, Austin, Texas.
Law Clerk, June 1990-August 1992.

PROFESSIONAL MEMBERSHIPS AND ACTIVITIES

Certification: *Board Certified, Civil Appellate Law — Texas Board of Legal Specialization*

Admissions:

Texas Bar (1990)
United States Supreme Court (2007)
United States Court of Appeals for the Fifth Circuit (1992)
United States District Courts: S.D. Tex. (1994), N.D. Tex. (1997), E.D. Tex. (1998), W.D. Tex. (2012)

Accolades:

Named in *Texas Monthly* as a *Texas Super Lawyer*® every year from 2007 to present.
Named in *H Texas Magazine* as one of the *Top Lawyers in Houston*® from 2008 to 2015 and in 2017.

Memberships:

Member of American Arbitration Association Panel of Commercial Arbitrators
Fellow, Texas Bar Foundation
Fee Dispute Committee, Houston Bar Association

PUBLICATIONS

- Byron C. Keeling, *In the New Era of Oil and Gas Royalty Accounting: Drafting a Royalty Clause that Actually Says What the Parties Intend It to Mean*, 69 BAYLOR L. REV. 516-573 (2017).
- HBA Fee Dispute Committee, *Eight Suggestions for Avoiding Fee Disputes*, 45 HOUSTON LAWYER 16-19 (2007) (credited co-author).
- Byron C. Keeling & Karolyn King Gillespie, *A New Era of Royalty Accounting: Practical Advice for the Payor*, 44 ROCKY MTN. MIN. L. FOUND. J. 15-33 (2007) (also appearing at 25 PETROLEUM ACC'G & FIN. MGMT. J. 19-37 (Summer 2006)).
- Byron C. Keeling & Karolyn King Gillespie, *The First Marketable Product Doctrine: Just What is the "Product"?*, 37 ST. MARY'S L.J. 1-117 (2005).
- Byron C. Keeling, *A New Era in Oil and Gas Royalty Accounting*, OIL & GAS FINANCIAL J., Sept. 2005, at 20.
- Jack O'Neill & Byron C. Keeling, *Valuation of Oil Royalties: From the Perspective of the Payor*, 47 INST. OF OIL & GAS L. & TAX. § 6 (1996).
- Jack O'Neill, Hon. Harriet O'Neill & Byron C. Keeling, *Damages Update*, 14 THE ADVOCATE 362 (State Bar Litigation Section Report 1995).
- Byron C. Keeling, *Toward a Balanced Approach to "Frivolous" Litigation: A Critical Review of Federal Rule 11 and State Sanctions Provisions*, 21 PEPP. L. REV. 1067-1160 (1994).
- Byron C. Keeling, *A Prescription for Healing the Crisis in Professionalism: Removing the Burden of Enforcing Professional Standards of Conduct from the Courts to the Legal Profession*, 25 TEX. TECH L. REV. 31-74 (1993).
- Byron C. Keeling, *Neither an Elephant Gun Nor a Cardboard Sword: Due Process Requirements in Sanctions Litigation*, 12 REV. LITIG. 343-390 (1993).
- Sam D. Johnson, Thomas M. Contois & Byron C. Keeling, *The Proposed Amendments to Rule 11: Urgent Problems and Suggested Solutions*, 43 BAYLOR L. REV. 647-700 (1991).
- Sam D. Johnson, Byron C. Keeling & Thomas M. Contois, *The Least Severe Sanction Adequate: Reversing the Trend in Rule 11 Sanctions*, 61 MISS. L.J. 39-54 (1991) (also appearing at 54 TEX. B.J. 962).
- David W. Holman & Byron C. Keeling, *Entering the Thicket? Mandamus Review of Texas District Court Witness Disclosure Orders*, 23 ST. MARY'S L.J. 365-422 (1991).
- David W. Holman & Byron C. Keeling, *Disclosure of Witnesses in Texas: The Evolution and Application of Rules 166b(5) and 215(5) of the Texas Rules of Civil Procedure*, 42 BAYLOR L. REV. 405-458 (1990).
- Byron C. Keeling, *Property Taxation of Colleges and Universities: The Dilemma Posed by the Use of Facilities for Purposes Unrelated to Education*, 16 J.C. & U.L. 623-48 (1990).
- Comment, *Attempting to Keep the Tablets Undisclosed: Susceptibility of Private Entities to the Texas Open Records Act*, 41 BAYLOR L. REV. 203-229 (1989).

SELECTED CLE PRESENTATIONS

- Nat'l Assoc. Royalty Owners-Texas (June 2012)—Current Issues in Oil and Gas Royalty Litigation
South Texas College of Law (Feb. 2007)—Proving and Collecting Attorneys' Fees in Civil Trials
University of North Texas PDI (Dec. 2005)—The First Marketable Product Doctrine: Just What is the Product?
University of Wisconsin College of Eng'g (Nov. 2005)—Three Common Issues in Supplier Relationships
Lorman Educ. Serv. (June 2005)—Disqualification: A Trap for the Unwary Practitioner
University of Wisconsin College of Eng'g (Nov. 2003)—Common Law Exceptions to the Duty to Warn
Lorman Educ. Serv. (June 2001)—Traps for the Unwary Practitioner: Sanctions, Contempt & Disqualification

SELECTED CASES

Notable Fifth Circuit and Texas Supreme Court Cases:

Hartford Fire Ins. Co. v. City of Mont Belvieu, 611 F.3d 289 (5th Cir. 2010) (co-counsel with Jim Cupples for Hartford Fire Insurance Company) (surety law).

Starwood Mgmt., LLC v. Swaim, 530 S.W.3d 673 (Tex. 2017) (co-counsel with Ross Sears for Starwood Management, LLC) (legal malpractice).

Lira v. Greater Houston German Shepherd Dog Rescue, Inc., 488 S.W.3d 300 (Tex. 2016) (co-counsel with Zandra Anderson for Lydia and Alfonso Lira) (property rights).

In re Deepwater Horizon, 470 S.W.3d 452 (Tex. 2015) (co-counsel with Mike Maloney and Dwayne Day for Ranger Insurance Ltd.) (insurance coverage).

Zinc Nacional, S.A. v. Bouché Trucking, Inc., 308 S.W.3d 395 (Tex. 2010) (co-counsel with Alison White Haynes, Milton Colia and Ken Slavin for Zinc Nacional, S.A.) (personal jurisdiction).

Notable Court of Appeals Cases:

Starkey v. Graves, 448 S.W.3d 88 (Tex. App.—Houston [14th Dist.] 2014, no pet.) (fraud, breach of contract, and breach of the statutory duty of loyalty).

Feldman v. KPMG LLP, 438 S.W.3d 678 (Tex. App.—Houston [1st Dist.] 2014, no pet.) (subject matter jurisdiction for declaratory relief).

McGehee v. Hagan, 367 S.W.3d 848 (Tex. App.—Houston [14th Dist.] 2012, pet. denied) (enforceability of lease agreement).

Danish LeaseGroup, Inc. v. York Oil & Gas Mgmt., 362 S.W.3d 220 (Tex. App.—Dallas 2012, no pet.) (local action doctrine).

Hartford Fire Ins. Co. v. C. Springs 300, Ltd., 287 S.W.3d 771 (Tex. App.—Houston [1st Dist.] 2009, pet. denied) (enforceability of surety bondability letter).

DeClaire v. G&B McIntosh Family L.P., 260 S.W.3d 34 (Tex. App.—Houston [1st Dist.] 2008, no pet.) (parol evidence rule).

Case Funding Network, L.P. v. Anglo-Dutch Petroleum Int'l, Inc., 264 S.W.3d 38 (Tex. App.—Houston [1st Dist.] 2007, pet. denied) (accord and satisfaction).

Exito Electronics Co. v. Trejo, 166 S.W.3d 839 (Tex. App.—Corpus Christi 2005, no pet.) (exercise of personal jurisdiction).

Ho Wah Genting Kintron Sdn Bhd v. Leviton Mfg. Co., 163 S.W.3d 120 (Tex. App.—San Antonio 2005, no pet.) (exercise of personal jurisdiction).

Hartford Cas. Ins. Co. v. State, 159 S.W.3d 212 (Tex. App.—Austin 2005, pet. denied) (substantive and procedural due process).

Ray Ferguson Interests, Inc. v. Harris Cty. Sports & Convention Corp., 169 S.W.3d 18 (Tex. App.—Houston [1st Dist.] 2004, no pet.) (sovereign immunity).

Swank v. Sverdlin, 121 S.W.3d 785 (Tex. App.—Houston [1st Dist.] 2003, pet. denied) (fraud, usury and breach of fiduciary duty).

John Wood Group USA, Inc. v. ICO, Inc., 26 S.W.3d 12 (Tex. App.—Houston [1st Dist.] 2000, pet. denied) (enforceability of letter of intent).