



C. Robert Heath

PARTNER

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Attorney Overview

Complex Governmental Litigation and Counseling - Having served as the Chair of the Texas Attorney General's Opinion Committee, Bob has a background in issues involving the scope of government authority. He works with private and public entity clients on matters including open government, purchasing, ethics, regulatory actions, election law, and school law.

Election Law and Voting Rights - Drawing on experience from four decennial redistricting cycles (1971-2001), Bob has assisted hundreds of governmental bodies to adopt redistricting plans and obtain approval from the Department of Justice. He also defends governmental bodies whose election practices are challenged under the Constitution, or the Voting Rights Act, and represents candidates, governments, and other interested parties in election contests.

Administrative Practice - A member of the original group of board-certified administrative law attorneys, Bob represents persons and corporations in proceedings before state agencies and in appealing agency decisions in the courts.

Representative Experience

Open Government and Ethics

- ◆ Represented numerous clients before the Attorney General on open records issues, including successfully preventing the release of private equity funds' sensitive financial information. One of these cases was in a ruling in which the Attorney General found that Bob's client was the only one of ten private equity funds covered by the decision that established its right to withhold the information from public disclosure
- ◆ Represented clients in open records and open meetings cases in courts ranging from the district court to the Texas Supreme Court
- ◆ Advises a multi-national corporation on ethics filing issues



Practice Areas

- ◆ Elections
- ◆ General Administrative
- ◆ Civil Litigation
- ◆ Open Government
- ◆ Voting Rights & Redistricting
- ◆ Annexation & Land Use
- ◆ Cities
- ◆ Counties
- ◆ Higher Education
- ◆ Schools
- ◆ Special Districts

Education

- ◆ The University of Texas Law School, J.D.— Friar Society
- ◆ University of Texas at Austin, B.A

Admissions

- ◆ Supreme Court of Texas, 1972
- ◆ Supreme Court of the United States
- ◆ [Continued...]

Complex Governmental Litigation

- ◆ Obtained an injunction against a federal agency to prevent it from closing a loan for a utility district when the effect of the loan would be to prevent the firm's client, a city, from providing water service to the area for the 40-year term of the loan
- ◆ Successfully defended a state agency's decision not to license an individual. The agency's licensing decision had been overturned by the district court and the court of appeals. The firm was hired after the adverse decision in the court of appeals and persuaded the Supreme Court to take the case and reverse the lower courts.

Voting Rights

- ◆ Developed a theory to permit a city election to proceed notwithstanding a Department of Justice objection to the city's redistricting plan and successfully defended it before the district court, the Fifth Circuit, the United States Supreme Court and against a collateral attack brought by the Department of Justice in a three-judge federal district court
- ◆ Lead counsel in the case that established the Fifth Circuit rule requiring the use of citizen-voting-age population in assessing the viability of claims brought under section 2 of the Voting Rights Act
- ◆ Successfully defended a school district's at-large election system by establishing post-census population changes that undercut the basis of the plaintiffs' case, then defended the decision in the Fifth Circuit and persuaded the United States Supreme Court not to hear the case *despite* the United States Solicitor General's request that it do so
- ◆ Represented clients in numerous other court cases and before the Department of Justice, both in written submissions and negotiation with the top levels of the Department's Civil Rights Division and Voting Section

Election Contest and Recounts

- ◆ Successfully represented clients in election contests for offices including the United States Congress, the Texas House of Representatives, and the county commissioners court
- ◆ Counseled clients in recounts and was a representative at the recount for offices ranging from the United States Senate to chief justice of a court of appeals

- ◆ United States Court of Appeals for the Fifth Circuit
- ◆ United States District Courts for the Eastern, Northern, Southern, and Western Districts of Texas
- ◆ Administrative Law, Texas Board of Legal Specialization

Administrative Proceedings

- ◆ Represented clients in numerous contested case proceedings involving certificates of need, certificates of convenience and necessity, and licenses
- ◆ Commented on agency rules and challenged rules in state court, including a challenge of stringent emission requirements on behalf of the nation's airlines

Career Highlights

- ◆ Former Chair, Opinion Committee, Office of the Attorney General of Texas
- ◆ Former Briefing Attorney, United States District Court, Western District of Texas
- ◆ Fellow, Texas Bar Foundation

Publications & Presentations

- ◆ ***Application of Governmental Law Requirements to Public-Private Partnership Projects***, presented at the Water Law Fundamentals and Texas Water Law Institute, Austin, Texas (November 2016).
- ◆ ***Using Census Data Sources to Prove Citizenship in Voting Rights Litigation***, Webinar, ABA Center for Professional Development (January 2016).
- ◆ ***America Votes! Challenges to Modern Election Law and Voting Rights, Third Edition***, Author of Chapter 4, "Using Census Data Sources to Prove Citizenship in Voting Rights Litigation." (2016).
- ◆ ***The New Normal in Electoral Access and Political Participation: Challenges Facing the 2016 Election Cycle***, presented at the 2015 ABA Annual Meeting, Chicago, Illinois (August 2015).
- ◆ ***Applying a Bi-Racial Jurisprudence in a Tri-Ethnic World***, American Bar Association Section of State and Local Government Law (August 2015).
- ◆ ***City Attorneys and the Voting Rights Act***, presented to Texas City Attorneys Association Fourteenth Annual Riley Fletcher Basic Municipal Law Seminar, Austin, Texas (February 2013).
- ◆ ***Public Information Act: E-mail and Electronic Media***, presented to the Texas Municipal League Annual Conference, Houston, Texas (October 2011).
- ◆ ***Open Records Laws and the Redistricting Process***, presented to National Conference of State Legislatures National Redistricting Seminar, Austin, Texas (March 2010).
- ◆ ***Thinking about Records from a Litigation Perspective***, presented at National Redistricting Seminar, National Conference of State Legislatures; Austin, Texas (March 2010).
- ◆ ***The Impact of Non-Citizens on Voting Rights Issues***, presented at the Voting Rights Litigation Equal Access in a Post-Racial Nation Seminar, International Municipal Lawyers Association; Columbia, South Carolina (December 2009).
- ◆ ***When Elections Are Too Close To Call***, presented at the 4th Annual Advances Texas Administrative Law Seminar, Austin, Texas (August 2009).
- ◆ ***Redistricting Issues for City Attorneys***, presented at the TCAA Summer Conference, South Padre Island, Texas (June 2009).
- ◆ ***2009 Supreme Court Voting Rights Cases***, presented at the 51st Annual County Judges and

Commissioners Continuing Education Conference and Educations Exposition, V.G. Young Institute of County Government, Austin, Texas (March 2009).

- ♦ **Evolution of Texas Public Information Law: The Early Years**, Presented at the Advanced Administrative Law Course, State Bar of Texas Professional Development Program, Austin, Texas (2005)
- ♦ **Managing the Political Thicket: Developing Objective Standards in Voting Rights Litigation**, 21 Stetson Law Review, 819 (1992), quoted in *Holder v. Hall*, 512 U.S. 874, 889 (1994) (O'Connor, J., concurring).
- ♦ **The Encyclopedia of the United States Congress**, D. Bacon, et al., editors, New York: Simon & Schuster 1995 (author of article on *Baker v. Carr*).
- ♦ **79 National Civic Review 50** (1990): "*Thornburg v. Gingles*: The Unresolved Issues"
- ♦ **Cities & Villages**, "Surviving Redistricting Without Litigation," The Ohio Municipal League, (January 1991).
- ♦ **The Texas Open Meetings Act**, Presented at the Advanced Administrative Law Course, State Bar of Texas Professional Development Program, Austin, Texas (1989, 1990, 1991, 1992, 1993, 1994, 1995 and 1996).
- ♦ **Voting Rights: Defendant's Perspective**, Presented at Suing and Defending Governmental Entities and Officials, State Bar of Texas Professional Development Program, Dallas and San Antonio, Texas (February 1990).
- ♦ **Recent Developments in Voting Rights Law**, Presented at Annual Conference of National Institution of Municipal Law Officers, Seattle, Washington (October 1989).
- ♦ **Thornburg v. Gingles: The Unresolved Issues**, Presented to the National Institute of Municipal Law Officers, Washington, D.C. (March 13, 1988).
- ♦ **Recent Developments in Voting Rights Law**, presented at Annual Conference of National Institution of Municipal Law Officers, Seattle, Washington (October 1989).
- ♦ **Thornburg v. Gingles: The Unresolved Issues**, presented to the National Institute of Municipal Law Officers, Washington, D.C. (March 13, 1988).
- ♦ **Texas Open Meetings & Open Records Law and Recent Legal Developments**, Appearing in "Two Decades of Open Government in Texas" 1967-1968, Proceedings of the Fourth Annual Media Law Conference, State Bar of Texas, Austin, Texas (November 1986).
- ♦ **Effect of Annexation Prior to Preclearance Under Section 5 of the Voting Rights Act**, presented to the Section on Zoning, Planning and Land Development of the National Institute of Municipal Law Officers, Washington, D.C. (March 16, 1986).
- ♦ **Texas Administrative Practice and Procedure**, Chapter R, "The Texas Open Meetings Act," State Bar of Texas (1985).
- ♦ **Limited Purpose Annexation: An Extension of Land Use Planning**, 16 "Environmental Law Journal 1", State Bar of Texas (1985) (Co-author with Caroline Scott).
- ♦ **Media Law Handbook**, Chapter 5, "The Texas Open Meetings Act," State Bar of Texas (1st ed 1980; 2nd ed 1984).
- ♦ **Ethics in Government**, Chapter H, "Texas Open Records Act," State Bar of Texas (1983).

Representative Cases

- ◆ *Lepak v. City of Irving*, 453 F. App'x 522 (5th Cir. 2011).
- ◆ *Lopez v. City of Houston*, 617 F.3d 336 (5th Cir. 2010).
- ◆ *Reyes v. City of Farmers Branch*, 586 F.3d 1019 (5th Cir., 2010)
- ◆ *Chen v. City of Houston*, 206 F.3d 502 (5th Cir., 2000)
- ◆ *Valdespino v. Alamo Heights Independent School Dist.*, 168 F.3d 848 (5th Cir., 1999)
- ◆ *Campos v. City of Houston*, 113 F.3d 544 (5th Cir., 1997)
- ◆ *Campos v. City of Houston*, 968 F.2d 446 (5th Cir., 1992)
- ◆ *In Re Holcomb*, 186 S.W. 3d 553 (Tex 2006)
- ◆ *In re City of Georgetown*, 53 S.W.3d 328 (Tex. Sup., 2001)
- ◆ *City of Pflugerville v. Capital Metropolitan Transp. Authority*, 123 S.W.3d 106 (Tex.App.-Austin, 2003)
- ◆ *Guadalupe-Blanco River Authority v. Kraft*, 77 S.W.3d 805 (Tex. 2002)
- ◆ *Board of Law Examiners of State v. Stevens*, 868 S.W.2d 773 (Tex. Sup., 1994)
- ◆ *Rodriguez v. Bexar County, Tex.*, 385 F.3d 853 (5th Cir., 2004)
- ◆ *Rodriguez v. Cuellar*, 143 S.W.3d 251 (Tex. App.-San Antonio, 2004)
- ◆ *Foreman v. Dallas County, Tex.*, 193 F.3d 314 (5th Cir., 1999)
- ◆ *Southwest Airlines Co. v. Texas High-Speed Rail Authority*, 867 S.W.2d 154 (Tex.App.-Austin, 1993)
- ◆ *U.S. v. City of Houston*, 800 F.Supp. 504 (S.D.Tex., 1992) (Three-Judge Court)
- ◆ *Salas v. Southwest Texas Jr. College Dist.*, 964 F.2d 1542 (5th Cir., 1992)
- ◆ *Save Our Springs Alliance, Inc. v. Austin Independent School Dist.*, 973 S.W.2d 378 (Tex.App.-Austin, 1998)
- ◆ *Ector County v. Hollmann*, 901 S.W.2d 687 (Tex.App.-El Paso, 1995)
- ◆ *U.S. v. Keresztury*, 293 F.3d 750 (5th Cir., 2002)
- ◆ *League of United Latin American Citizens, Council No. 4386 v. Midland Independent School Dist.*, 829 F.2d 546 (5th Cir., 1987)