

2006 Advanced Texas Administrative Law Seminar
July 27-28, 2006 • Radisson Hotel and Suites on Town Lake • Austin, TX

Thursday Morning, July 27, 2006

Presiding Officer:

Roger B. Borgelt, Potts & Reilly, L.L.P. - Austin, TX

9:30 am 0.75 hr	<p>Section 2001.038 Declaratory Judgment Actions Challenging the Validity of a Rule: A Question of Timing</p> <p>This session will discuss the ability of a person to challenge the validity of a rule by way of a declaratory judgment action pursuant to the APA. Current case law will be reviewed demonstrating an inconsistency in interpretation by the 3rd Court of Appeals—as to when a declaratory judgment may proceed when there is a pending agency contested case proceeding or a final order rendered by the agency. The availability of a temporary injunction during the pendency of the declaratory judgment action will also be examined. A suggested resolution of the conflicting case law will be set forth and discussed.</p> <p>Ronald Lynn Beal, Baylor Law School - Waco, TX</p>
10:15 am 0.50 hr	<p>Case Law Update</p> <p>A summary of key issues involving administrative law over the past year.</p> <p>Kerry McGrath, Clark Thomas & Winters PC - Austin, TX</p>
11:00 am 0.75 hr	<p>State Agency Employment Issues</p> <p>A discussion of recent developments in employment law cases affecting government agencies including discrimination, whistleblowers, and what constitutes “adverse employment action.”</p> <p>Philip Durst, Deats Durst Owen & Levy, P.L.L.C. - Austin, TX</p>
11:45 am 0.50 hr	<p>Workers Comp Update</p> <p>An examination and exploration of how claims, reviews, and appeals are handled at the Texas Department of Insurance.</p> <p>Jane Lipscomb Stone, Stone Loughlin & Swanson, LLP - Austin, TX</p>

Thursday Afternoon, July 27, 2006

Presiding Officer:

Janet I. Monteros, Vista Health Plan, Inc - Austin, TX

1:30 pm 0.50 hr	<p>Agency Standing to Sue and Justiciability of Political Issues</p> <p>How do state and local entities achieve things in the courts that they could not otherwise achieve through their administrative processes?</p> <p>Kristofer S. Monson, Attorney General's Office - Austin, TX</p>
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2:00 pm 1.25 hrs	<p>Sovereign Immunity</p> <p>Discussion of the scope of protection afforded by sovereign immunity, how sovereign immunity can be waived and what claims can be maintained against governmental entities/officials without obtaining a waiver of immunity. The presentation will address recent developments in the area of immunity, particularly focusing on contract claims, claims for injunctive relief, as well as tort claims.</p> <p>Michael A. Shaunessy, Shaunessy & Burnett PC - Austin, TX</p>
3:30 pm 0.50 hr	<p>Select Developments in Occupational Licensing</p> <p>This presentation will review recent developments in the regulation of occupational licenses, with an emphasis on the licensees' due process rights to meaningful notice at hearings.</p> <p>James Bruce Bennett, Cardwell, Hart & Bennett, L.L.P. - Austin, TX</p>
4:00 pm 0.75 hr	<p>Effective Practice before the State Office of Administration Hearings</p> <p>What are the nuances of advocacy in contested case proceedings; do courtroom trial tactics work?</p> <p>Cathleen Parsley, St Ofc Administrative Hearings - Austin, TX</p>
4:45 pm 0.75 hr	<p>Working with Legislative Oversight Committees</p> <p>An administrative lawyer cannot ignore the legislature. The legislature exercises tremendous influence over agency rulemaking through its oversight powers, even after a bill has become law.</p> <p>Denise Davis, Texas Legislative Council/House Of Rep. - Austin, TX Anthony F. Haley, Haley, Romero & Winick - Austin, TX</p>

Friday Morning, July 28, 2006

Presiding Officer:

William O. Coe, Clark Thomas & Winters - Austin, TX

9:00 am 0.50 hr	<p>An Agency's Ability to Modify ALJ Findings Set Forth in a Proposal for Decision</p> <p>This session will discuss the power and limitations governing an agency's ability to modify the findings of a SOAH ALJ's proposal for decision. Section 2001.058(e) of the APA and other relevant statutes governing an agency's power to render a final decision will be examined and analyzed, as well as recent case law decisions rendered by the 3rd Court of Appeals.</p> <p>Ronald Lynn Beal, Baylor Law School - Waco, TX</p>
9:30 am 0.00 hr 0.25 hr ethics	<p>A Practical Guide for Using the Texas Public Information Act Effectively and Efficiently</p> <p>The best practices for effective and efficient use of the Texas PIA from the perspectives of the requestor, the agency, and a non-governmental entity whose sensitive information is in the possession of a governmental body covered by the PIA.</p> <p>Claude Robert Heath, Bickerstaff, Heath, Pollan & Caroom, L.L. - Austin, TX</p>

10:30 am 0.00 hr 0.25 hr ethics	<p>Shifting Gears: Protecting Confidential Information in Judicial Appeals of Agency Actions</p> <p>Texas administrative agencies often have rules and procedures for protecting the confidentiality of trade secrets and other proprietary information during the agency hearing process. This topic takes the next step, discussing the issues and practical solutions associated with maintaining confidentiality when the record from your contested case proceeding becomes the subject of a lawsuit.</p> <p>John F. Williams, Clark, Thomas & Williams - Austin, TX</p>
10:45 am 1.00 hr	<p>Judges Panel</p> <p>A distinguished panel of judges will share observations and respond to practitioners' questions about effective advocacy and appellate/administrative law issues.</p> <p>Moderator: Steven Baron, Steven Baron Consulting and Legal Servic - Austin, TX Suzanne Covington, Austin, TX Nathan L. Hecht, Supreme Court Of Texas - Austin, TX Jan Patterson, 3rd Court Of Appeals - Austin, TX</p>

Friday Afternoon, July 28, 2006

Presiding Officer:

Laura L. Lavalle, Beveridge & Diamond, P.C. - Austin, TX

1:00 pm 1.00 hr	<p>Commissioners Panel: Effective Advocacy for Rulemaking and Other Agency Action</p> <p>What do commissioners at major representative agencies find persuasive in evaluating contested cases, rulemaking and other agency actions?</p> <p>Moderator: Roger B. Borgelt, Potts & Reilly, L.L.P. - Austin, TX Julie Caruthers Parsley, Public Utility Commission - Austin, TX Bruce A. Scudday, Texas State Board of Podiatric Medical E - El Paso, TX Larry R. Soward, TCEQ - Austin, TX</p>
2:00 pm 0.00 hr 0.25 hr ethics	<p>Considerations When Attorneys Submit and Certify Complex Factual Statements: How Much Diligence Is Due?</p> <p>Discussion and analysis of an attorney's ethical duties and obligations when submitting complex factual statements to agencies. How much diligence is due? What to advise your clients.</p> <p>Rodman C. Johnson, Brown McCarroll LLP - Austin, TX</p>
2:30 pm 0.00 hr 1.25 hrs ethics	<p>Administrative Practice: Ethics and the Law Governing Lawyers</p> <p>This session covers the law governing lawyers, with particular focus on issues relevant to administrative practice, such as ex parte communications, privilege, conflicts, and more.</p> <p>Michael Sean Quinn, Quinn Hayes & Quinn - Austin, TX</p>