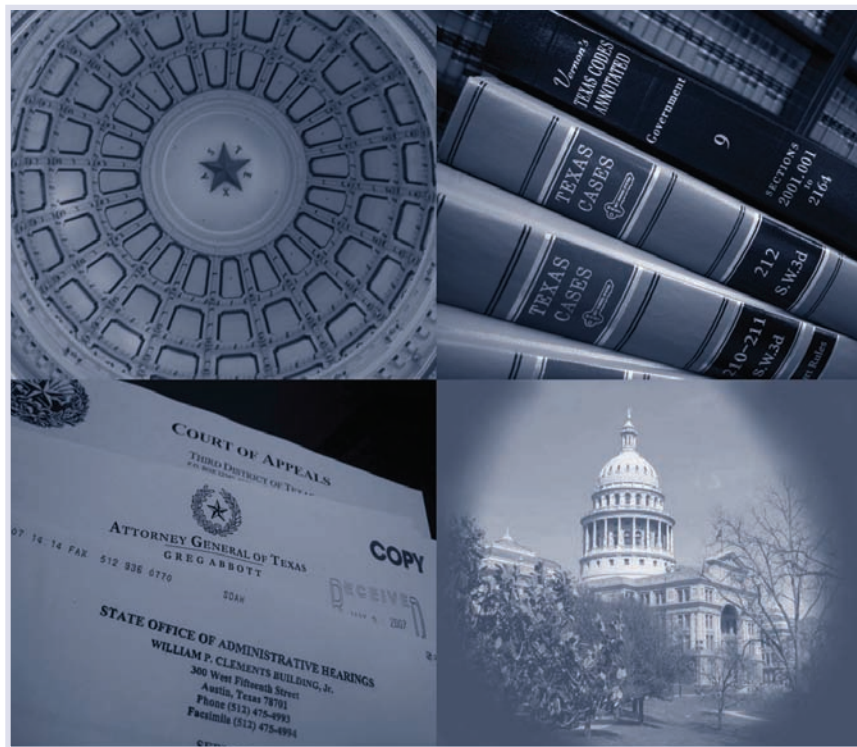


ADMINISTRATIVE AND PUBLIC LAW SECTION OF THE STATE BAR OF TEXAS
AUSTIN BAR ASSOCIATION ADMINISTRATIVE LAW SECTION
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3rd Annual
**ADVANCED TEXAS
ADMINISTRATIVE LAW SEMINAR**

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August 28-29, 2008
Omni Austin Hotel at Southpark
Austin, Texas

3rd Annual
ADVANCED TEXAS ADMINISTRATIVE LAW SEMINAR

August 28 - 29, 2008 • Omni Austin Hotel at Southpark • Austin, Texas

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THURSDAY MORNING, AUG. 28, 2008

Presiding Officer: Jason Ray, Austin, TX

7:30 a.m. Registration Opens

Continental breakfast included in conference registration fee.

8:15 a.m. Welcoming Remarks

8:30 a.m. .75 hr

Case Law Update

A summary of key cases involving administrative law over the past year.

Alessandra Ziek Beavers, Austin, TX
David D. Dubose, Austin, TX
Ryan D. V. Greene, Austin, TX

9:15 a.m. .50 hr

Third Party Issues under the PIA: Protecting Trade Secrets & Competitive Information

Discussion of PIA protections for third party information; protecting information upon submission to a governmental body; participating in requests for AG rulings and suing under the PIA to protect proprietary information.

Susan D. Gusky, Austin, TX

9:45 a.m. .50 hr

Open Records: New Developments and Recurring Issues in Public Information Act Requests

This session will discuss recent developments in open records laws and explain how governmental bodies can draft effective briefs to the Office of the Attorney General as required by section 552.301 of the Public Information Act.

Amanda E. Crawford, Austin, TX

10:15 a.m. Break

10:30 a.m. .75 hr

Official and Unofficial Attorney General Opinions, Letter Rulings, and Open Records Decisions

A discussion of the various Attorney General rulings and opinions, the jurisprudential significance of each, who may request such rulings, and time frames for issuance.

C. Robert Heath, Austin, TX
Andrew Weber, Austin, TX

11:15 a.m. .75 hr

Civil Investigative Demands

Civil Investigative Demands are an investigative and enforcement tool of the Office of the Attorney General. The session will cover: What are they? What does your client have to do if he is the subject of one? What are the potential consequences? What is negotiable?

Roger B. Borgelt, Austin, TX
Brad Schuelke, Austin, TX

THURSDAY AFTERNOON

Presiding Officer:
Kimberly A. Frost, Austin, TX

LUNCHEON PRESENTATION

12:00 p.m. Pick up Box Lunch
Included in conference registration fee.

12:30 p.m. .75 hr

Tax Proceedings at SOAH

Hon. Peter Brooks, Austin, TX

1:15 p.m. .75 hr

Informal Proceedings at State Agencies

Moderator: Hon. Howard S. Seitzman, Austin, TX
Michael C. Crowley, Austin, TX
Amanda Jean Ellis, Austin, TX

2:00 p.m. .50 hr

Primary and Exclusive Agency Jurisdiction: Impact on Court Litigation

Primary or exclusive agency jurisdiction can prevent, delay, or determine the outcome of court litigation. This session will provide an overview of the applicable doctrines and their current impact in selected practice areas.

Mary A. Keeney, Austin, TX

2:30 p.m. .50 hr

Changing Findings of Fact and Conclusions of Law

Legal restrictions on the ability of agencies to change an ALJ's findings of fact and conclusions of law

Don E. Walden, Austin, TX

3:00 p.m. Break

3:15 p.m. .50 hr

Advanced Discovery Issues

How does the APA synch with the TRCP in administrative proceedings? How do you deal with matters such as issuance of subpoenas, non-party discovery, protective orders in contested cases, and cost recovery?

Kathleen E. Magruder, Houston, TX

3:45 p.m. .50 hr ethics

The 'Rambo' Litigator in the Administrative Case

The presentation will examine dealing with the 'Rambo' litigator in the administrative case process from the start of the case as an investigation, through the Informal Settlement Conference and to the contested case hearing at the State Office of Administrative Hearings. Emphasis will be on both legal remedies and personal approaches with reference to key ethical considerations.

Dewey E. Helmcamp III, Austin, TX

4:15 p.m. .50 hr ethics

AYLA Presentation: How to Get Signed Up for Texas Lawyers Help

The statewide web initiative consists of two websites: Texas Law Help and Texas Lawyers Help. They are designed to be comprehensive online resources for clients and advocates. Texas Lawyers Help was launched in 2005 as a resource for legal aid attorneys and attorneys interested in pro bono work. This session will focus on the resources available to attorneys via Texas Lawyers Help.

L. Monique Gonzalez, Austin, TX

4:45 p.m. .50 hr ethics

Public Sector Attorneys and Pro Bono Representation

This presentation will address the current state of pro bono participation among government attorneys, the legal and practical limitations on their participation, and the opportunities that might improve the number of government attorneys providing pro bono representation.

Joe H. Thrash, Austin, TX

5:15 p.m. Adjourn to Reception honoring Shelia Bailey Taylor, the long-time Chief ALJ of SOAH, on her retirement.

Remarks by Cathie Parsley, incoming Chief ALJ

FRIDAY MORNING, AUG. 29, 2008

Presiding Officer: Jason Ray, Austin, TX

7:30 a.m. Conference Room Opens

Breakfast tacos included in conference registration fee.

8:00 a.m. Welcoming Remarks

8:15 a.m. .75 hr

Ex Parte Communications: Is Vandygriff the Final Word?

Overview and panel discussion of ex parte communications in the administrative process.

Moderator: Thomas M. Pollan, Austin, TX
Lou Bright, Austin, TX
Hon. Howard S. Seitzman, Austin, TX
Elizabeth R. Todd, Austin, TX
Gaines F. West, II, College Station, TX

9:00 a.m. .50 hr

Intellectual Property Rights for Governmental Bodies: What You Need to Manage

Governmental entities can create and own intellectual property. When grants are made or contracts administered, governmental entities may limit or condition the intellectual property rights of others. Similarly, governmental entities can infringe third-party intellectual property rights. Governmental entities need to be deliberate in acquiring and managing intellectual property, to be sure they own what they create or pay others to create. They also need to manage the workplace so as to minimize risks that they infringe the intellectual property of others. This paper will focus on copyright law, because it is especially likely to be important to governmental entities, although mention will be made of trademarks and patents, primarily to put copyrights in context.

Sydney W. Falk, Jr., Austin, TX

9:30 a.m. .50 hr

The Impact of Criminal Convictions on Obtaining an Occupational License

Texas Occupations Code, Chapter 53 addresses the effects of criminal convictions on certain occupational licenses. This presentation will discuss the discretionary authority given to state agencies when evaluating applicants' and licensees' past criminal convictions and the non-discretionary obligations imposed on state agencies for applicants and licensees who are in prison.

Bradford J. Bowman, Austin, TX
Wendy M. Pellow, Austin, TX

10:00 a.m. .50 hr

Criminal Liability for Regulatory Violations

This presentation will address the evolution of the "administrative crime" and the exercise of power by agencies in recent years to promulgate rules and regulations that define criminal conduct. The speaker will also review the various varieties of "administrative crimes" that exist under Texas law, along with the most common standards by which courts have found criminal liability to exist for violations of agency rules and regulations.

Danny S. Ashby, Dallas, TX

10:30 a.m. Break

10:45 a.m. .50 hr

Developments in the Law of Rulemaking

The administrative lawyer who practices within a state agency will likely be called upon to assess whether a planned agency action complies with the rulemaking statutes in the Texas Government Code, especially chapter 2001. This presentation will focus on the required elements of rule proposal and adoption, and the new challenges to agencies posed by developments in the law such as HB 3430 (80th Leg.) and El Paso Hospital District.

Robert D. Sweeney, Jr., Austin, TX
Author: Ann Bright, Austin, TX

11:15 a.m. .75 hr

Implied Powers of an Administrative Agency

As a creation of the Legislature, an administrative agency can exercise only those powers conferred by statute. Some powers, though not expressly stated, are implied by the language of the statute. This presentation addresses factors that should be considered in distinguishing between an agency's exercise of implied powers and agency actions that fall outside the bounds of its authority.

Steve Baron, Austin, TX

FRIDAY AFTERNOON

Presiding Officer:
Kimberly A. Frost, Austin, TX

LUNCHEON PRESENTATION

12:00 p.m. Break for Hot Lunch Buffet
Included in conference registration fee.

12:30 p.m. .75 hr

Old Dogs/New Tricks: Mediating at SOAH

Do you equate mediation with rolling over? Using video clips featuring some of your favorite SOAH ALJs, this session will help contested case litigators become fearless, effective participants in mediation.

Hon. Suzanne Marshall, Austin, TX
Hon. Renee M. Rusch, Austin, TX

1:15 p.m. .50 hr

Going Outside the Box? Recent Case Law Governing Non-APA Challenges to Agency Decisions

Kristofer S. Monson, Austin, TX

1:45 p.m. .42 hr

50 Great Web Resources for Administrative Law Attorneys

From city codes to federal regs to the best place to find the dirt on that expert witness, these are the web resources that administrative attorneys need to know.

Jason Ray, Austin, TX

2:10 p.m. .33 hr

Observations from 16 Years of Service

Judge Cooper, retiring from the bench on December 31, 2008, will reflect on her years of service as the judge of the 353rd District Court. Judge Cooper is the only Travis County district judge board-certified in the area of administrative law.

Hon. Margaret A. Cooper, Austin, TX

2:30 p.m. .75 hr

Judicial Panel

Q&A: written questions for the panel may be submitted any time prior to lunch Friday.

Moderator: Hon. Thomas H. Walston, Austin, TX
Hon. Nathan L. Hecht, Austin, TX
Hon. Lora Jeanette Livingston, Austin, TX
Hon. Bob Pemberton, Austin, TX

3:15 p.m. Adjourn

ABOUT THE COVER

Cover photo by Jason Ray. For more information, email jray@r-alaw.com



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CONFERENCE LOCATION

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at Southpark**
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P.O. Box 7759, Austin, TX 78713-7759 **or fax a copy to: (512) 475-6876**
Online registration available at www.utcle.org

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☐ Registration Fee after August 20, 2008 \$300.00

Government Lawyer

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Judge

Please list title and court/agency: _____

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August 28-29, 2008

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Free self parking.

KEY DATES

Registration & Cancellation

August 20, 2008–5 p.m.
last day for early registration
add \$50 for registrations
received after this time

August 22, 2008–5 p.m.
last day for full refund

August 25, 2008–5 p.m.
last day for partial refunds
\$50 processing fee applied

August 28, 2008–8:30 a.m.
conference begins

About the Conference

Sponsored by the Administrative and Public Law Section of the State Bar of Texas, Austin Bar Association Administrative Law Section, and The University of Texas School of Law, the Advanced Texas Administrative Law Seminar brings together practitioners and members of the judiciary, regulatory, and academic communities. Come hear relevant presentations and meet with experienced practitioners and judges while earning up to 14 MCLE credit hours and 1.5 hours of ethics, all at a great low price!

Administrative and Public Law Section of the State Bar of Texas

The Administrative and Public Law Section of the State Bar consists of more than 1,000 licensed attorneys throughout Texas who represent clients before, or are employed by, a variety of state and federal agencies, boards and commissions. The Section's members also represent clients in state and federal judicial proceedings in which agency decisions or actions are litigated. The Section sponsors the Mack Kidd Administrative Law Moot Court Competition and also supports the *Texas Tech Administrative Law Journal*, included in section membership.

www.adminlaw.org

Austin Bar Association Administrative Law Section

Everyone knows that Austin is the administrative law "capital" of Texas. The 450 members of the Austin Bar Administrative Law Section are dedicated to serving administrative lawyers in the central Texas area by organizing CLE opportunities, attending social functions, volunteering legal services, and raising thousands of dollars in donations for local charities all year long. Thanks to UTCLE and the State Bar Section for helping us serve our members through this CLE event!

www.austinbar.org/sectionadmin.shtml

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