

7TH ANNUAL

ADVANCED TEXAS ADMINISTRATIVE LAW SEMINAR



August 30–31, 2012

Sheraton Austin Hotel at the Capitol ▪ Austin, Texas

\$180 Government Lawyer Early Registration Fee

Earn up to 13.25 Hours of Credit Including 3.25 Hours of Ethics Credit
Specialization Credit Approved for Administrative Law

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THURSDAY MORNING, AUG. 30, 2012

Presiding Officer:

**James W. Checkley Jr., Cross Texas
Transmission, LLC, Austin, TX**

8:00 a.m. Registration Opens

Includes continental breakfast.

8:50 a.m. Welcoming Remarks

Recent Case Developments

9:00 a.m. .50 hr

Open Government

An examination of recent developments in the Open Meetings Act and Public Information Act and their impact on practitioners and governmental agencies.

G. Alan Waldrop, Locke Lord LLP, Austin, TX
Lori Fixley Winland, Locke Lord LLP, Austin, TX

9:30 a.m. .75 hr

Motions for Rehearing

An examination of recent decisions concerning motions for rehearing of final agency orders and the need, if any, for amendments to the provisions of the Texas APA that govern the filing and disposition of such motions.

J. Bruce Bennett, Cardwell, Hart & Bennett, L.L.P.,
Austin, TX
Dudley D. McCalla, Of Counsel, Jackson Walker L.L.P.,
Austin, TX

10:15 a.m. .50 hr

Judicial Deference to an Agency's Statutory Interpretation

When reviewing agency decisions, Texas courts often state that the agency's statutory interpretation is entitled to "serious consideration." What exactly does that mean? How much deference is given to the agency? What factors bear on the degree of deference? When is deference not given? This presentation examines last year's opinion by the *Texas Supreme Court in Railroad Commission v. Texas Citizens for a Safe Future and Clean Water* and how post-*Texas Citizens* cases have dealt with the issue.

Steven Baron, Consulting and Legal Services, Austin, TX

10:45 a.m. Break

11:00 a.m. .50 hr

The Right to a Contested Case

A discussion of developments in the law on the right to obtain a contested case hearing, including standing as an affected person.

Susan G. Conway, Graves Dougherty Hearon & Moody,
Austin, TX

11:30 a.m. .50 hr

Sovereign Immunity, Takings, Claims and Ultra Vires Doctrine

An examination of recent Supreme Court decisions on sovereign immunity and the viability of takings claims and the ultra vires doctrine to overcome governmental immunity from suit.

Mary A. Keeney, Graves Dougherty Hearon & Moody,
Austin, TX

12:00 p.m. .50 hr

Evidentiary Mistakes to Avoid

A discussion of common mistakes made by attorneys in administrative hearings.

Hon. Craig R. Bennett, State Office of Administrative
Hearings, Austin, TX

12:30 p.m. Pick Up Box Lunch

Included in conference registration.

THURSDAY AFTERNOON

Presiding Officer:

**Linda B. Secord, Office of the Attorney
General, Austin, TX**

LUNCHEON PRESENTATION

12:45 p.m. .75 hr

SOAH Update

Hon. Cathleen Parsley, State Office of Administrative
Hearings, Austin, TX

1:30 p.m. Break

1:45 p.m. .75 hr

Government Pre-Suit Investigative Powers

Legal and practical issues in responding to Attorney General investigative demands and state agency investigatory requests for information are covered.

James Edward Davis, Locke Lord LLP, Austin, TX
Jon L. Gillum, Locke Lord LLP, Austin, TX

2:30 p.m. 1.00 hr including .50 hr ethics

General Counsel Roundtable

This panel discussion focuses on issues beyond the APA, such as transparency, appropriations and legislative issues, including a discussion of ethical issues such as identifying the client and balancing the roles of advocate and advisor.

Moderator:

Ann Bright, Texas Parks and Wildlife Department,
Austin, TX

Panelists:

Steve Aragon III, Texas Health and Human Services
Commission, Austin, TX
Kimberly L. Kiplin, Texas Lottery Commission, Austin, TX
Les Trobman, Texas Commission on Environmental
Quality, Austin, TX
William F. Warnick, Texas General Land Office,
Austin, TX

3:30 p.m. Break

3:45 p.m. .50 hr

**The Yeses, Nos and Who Knows to a
Protest Proceeding Involving a Permit or
License from TABC**

Fundamentals regarding a protest to the application or renewal of a license before a county judge or a permit before the State Office of Administrative Hearings (SOAH).

David T. Duncan Jr., Texas Alcoholic Beverage
Commission, Austin, TX
Emily E. Helm, Texas Alcoholic Beverage
Commission, Austin, TX
John W. Sedberry, Texas Alcoholic Beverage
Commission, Austin, TX

4:15 p.m. 1.00 hr ethics

**What Judges Think of Litigation Ethics:
A Survey of State and Federal Opinions**

What judges think of lawyer conduct.

Claude E. Ducloux, Hill, Ducloux, Carnes & de la Garza,
Austin, TX

5:15 p.m. Adjourn

FRIDAY MORNING, AUG. 31, 2012**Presiding Officer:**

J. Kay Trostle, Smith Trostle & Huerta LLP, Austin, TX

8:30 a.m. Conference Room Opens

Includes continental breakfast.

9:00 a.m. .50 hr**Electronic Confidentiality Issues in the Practice of Law**

Coverage of the ABA Commission on Ethics 20/20 work papers on technology and confidentiality, including a practitioner's duty to prevent inadvertent and unauthorized disclosures and unauthorized access to information relating to representation of client, in light of Texas Disciplinary Rules of Professional Conduct Rule 1.05.

Janet I. Monteros, El Paso County Attorney's Office, El Paso, TX

9:30 a.m. .75 hr ethics**Pro Bono Opportunities in Administrative Law**

This session explores the variety of administrative law related pro bono opportunities available for attorneys including an attorney's ethical obligation to provide pro bono services.

Steven P. Elliot, Volunteer Legal Services of Central Texas, Austin, TX
 Susan Henricks, Hull Henricks LLP, Austin, TX
 Paul Denton Trahan, Fulbright & Jaworski, L.L.P., Austin, TX

10:15 a.m. Break**10:30 a.m. 1.00 hr ethics****The Texas Attorney Discipline Process**

An overview of the Texas attorney discipline process, current issues and resources available to assist attorneys in their practice.

Linda A. Acevedo, Chief Disciplinary Counsel, State Bar of Texas, Austin, TX
 Laura Bayouth Popp, Deputy Counsel for Administration, State Bar of Texas, Austin, TX

11:30 a.m. .50 hr**E-Discovery: Issues and Practical Management Strategies**

This presentation identifies developing issues in E-Discovery and presents some practical management strategies to address those issues.

Matthew C. Henry, Vinson & Elkins LLP, Dallas, TX

12:00 p.m. Pick Up Buffet Lunch

Included in conference registration.

FRIDAY AFTERNOON**Presiding Officer:**

Kimberly L. Kiplin, Texas Lottery Commission, Austin, TX

LUNCHEON PRESENTATION**12:15 p.m. .50 hr****Hot Topics Facing the 83rd Legislature**

Compelling government regulation and operations issues face the 83rd Legislature. Budget, public education, higher education, juvenile justice reform will be front and center. Other lesser-known issues are lining up for attention through interim committee work including state agency procurement and more.

Sherri R. Greenberg, The University of Texas at Austin, Austin, TX

12:45 p.m. Break**1:00 p.m. 1.00 hr****Should SOAH Make Final Decisions?**

Legislation has been proposed in the last three sessions of the Texas Legislature that would give SOAH authority to issue final orders in certain contested cases. The presenters provide historical context of the development of decision making authority in Texas administrative law jurisprudence, and discuss the pros and cons of assigning final decision making authority to SOAH. Time is available for your questions at the end of the presentation.

Panelists:

Jack Hohengarten, Office of the Attorney General, Austin, TX
 Dudley D. McCalla, Of Counsel, Jackson Walker L.L.P., Austin, TX
 Jon Eugene Porter Jr., McDonald Mackay & Weitz LLP, Austin, TX

2:00 p.m.**.75 hr****Who's the Prevailing Party?**

The 82nd Legislature amended Labor Code §413.0312, relating to review of medical fee disputes, to require the State Office of Administrative Hearings (SOAH) to identify the "non-prevailing" party, from whom the Texas Department of Insurance - Division of Workers' Compensation will collect the costs of services provided to SOAH. The term "non-prevailing party" is not defined in the Texas Labor Code or the Texas Administrative Code. This topic explores the concept of prevailing parties under this statute and others providing for fee shifting in administrative law proceedings, along with some practical aspects of this recent development.

Lesli Ginn, Office of the Attorney General, Austin, TX
 Thomas B. Hudson Jr., Graves Dougherty Hearon & Moody, Austin, TX

2:45 p.m.**1.00 hr****Judicial Panel**

Panelists engage in a round-robin discussion and respond to participants in a short, structured Q&A.

Moderator:

Hon. Hunter W. Burkhalter, State Office of Administrative Hearings, Austin, TX

Panelists:

Hon. Debra Lehrmann, Supreme Court of Texas, Austin, TX
 Hon. Bob Pemberton, Third Court of Appeals, Austin, TX
 Hon. Timothy M. Sulak, 353rd Judicial District Civil Court, Austin, TX

3:45 p.m.**Adjourn**

“ This conference had the best ethics presentations that I have seen and participated in during the 25 years I have been licensed.

The amount of credit and ethics hours is a great value!

Best selection of topics of any admin law seminar that I have attended.

Program, content, topics, formats and speakers were excellent.

Thank you for UT Law - CLE's contribution to the administrative law practice.

The speakers were very good and their experience and abilities make the difference for this advanced course.

The seminar was well run and the sessions informative and interesting.

Topics and speakers were great!

”

CONFERENCE FACULTY

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Austin, TX

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Dallas, TX

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Austin, TX

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LOU BRIGHT
Attorney at Law
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Third Court of Appeals
Austin, TX

JANET I. MONTEROS
El Paso County Attorney's Office
El Paso, TX

HOW TO REGISTER

Register online:
www.utcle.org

Or mail your registration to:
The University of Texas
School of Law
Attn. Registration
P.O. Box 7759
Austin, TX 78713-7759

Or fax to:
512-475-6876

Questions? Call us at 512-475-6700

MATERIALS, AUDIO AND IN-HOUSE CLE

Printed Materials in Course Binder

Leading practitioners and members of the judiciary, regulatory and academic communities provide the definitive set of materials.

eBinder on CD

Add an eBinder on CD to your course registration or materials purchase for only \$50. This electronic file includes searchable, indexed PDF versions of all printed materials. Allow 3-5 weeks from the conference date for fulfillment.

Audio MP3 Speeches on CD or Audio CD Set

Listen to Administrative Law on the go. Informative, topical and entertaining presentations recorded from UT Law's other live CLE programs are also available.

In-House CLE

CLE for two or more participants—as many as you want. Receive full MCLE credit. We'll accredit the course for you* and provide one Audio CD Set plus a Course Binder for each participant.

*Texas MCLE credit only.

REGISTRATION FORM

AL12

Mail this registration form to:
The University of Texas School of Law Attn. Registration
P.O. Box 7759, Austin, TX 78713-7759 or fax a copy to: 512-475-6876

PLEASE PRINT CLEARLY

Bar Card# _____ TX Other State: _____ N/A

Name [Mr. / Ms.] _____

Firm _____

Address _____

City _____ State _____ Zip _____

Telephone _____ Fax _____

Registrant's Email (required) _____

Assistant's Email (optional) _____

Invoices, confirmations and receipts are emailed to these addresses.

REGISTRATION

Includes Course Binder and Thursday and Friday Luncheon Presentations

Standard

- Early Registration Fee due by Wednesday, August 22, 2012.....\$395
- Registration Fee after Wednesday, August 22, 2012.....\$445

Government Lawyer

- Early Registration Fee due by Wednesday, August 22, 2012.....\$180
- Registration Fee after Wednesday, August 22, 2012.....\$230

Judge

- Please list Title and Court/Agency:** _____
- Registration—complimentary.....no charge

CONFERENCE PUBLICATIONS AND MEDIA

Allow 3-5 weeks from the conference date for delivery.

- Course Binder WITHOUT Conference Registration.....\$250
Note: Conference Registration includes Course Binder.
- Audio MP3 Speeches on CD.....\$130
- Audio CD Set.....\$210
- eBinder on CD (PDF format).....\$250/\$50
(\$250 purchased alone, \$50 with Registration or purchase of Course Binder or Audio MP3 Speeches on CD or Audio CD Set)

IN-HOUSE CLE: Bring the conference in-house and learn at your convenience.

Allow 3-5 weeks from the conference date for delivery. Approved for Texas MCLE credit.

- In-House CLE for 2—Includes Audio CD Set and Course Binders.....\$825
- _____ Add participants (includes Course Binder) for \$250 each.....\$ _____

TOTAL ENCLOSED.....\$ _____

METHOD OF PAYMENT

- Check (make checks payable to: The University of Texas at Austin)
- VISA or MasterCard (sorry, no AMEX or Discover) or P.O.

P.O. or Card number - - -

X _____

Authorized Signature

/

Exp. Date (mm/yy)

E-mail us at
service@utcle.org

or call us at
512-475-6700

or go to
www.utcle.org
for more information

AUSTIN

August 30–31, 2012

CONFERENCE LOCATION



Sheraton Austin Hotel at the Capitol
701 E. 11th Street
Austin, TX 78701
512-478-1111

Self-Parking: \$5 daily.
Additional parking at nearby public
garages and surface lots.

KEY DATES

August 22, 2012

last day for early registration
add \$50 for registrations
received after this time

August 24, 2012

last day for full refund

August 27, 2012

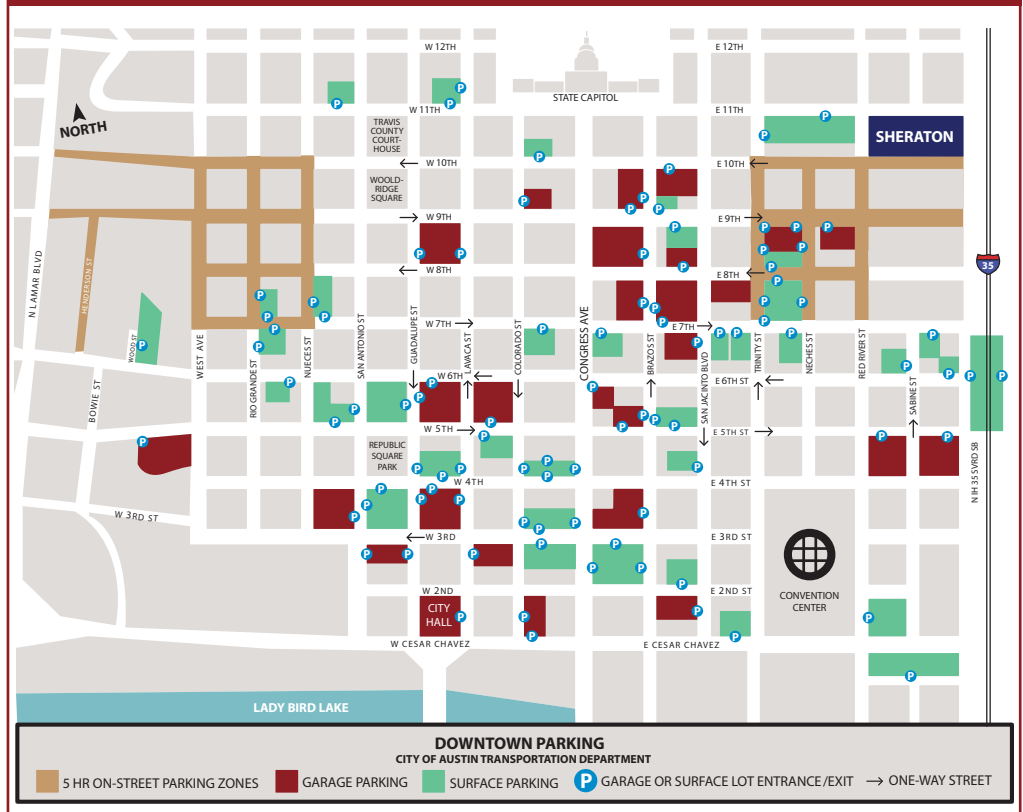
last day for partial refund
\$50 processing fee applied

August 30, 2012, 8:50 a.m.

seminar begins

This course has been approved for Minimum Continuing Legal Education credit by the State Bar of Texas Committee on MCLE in the amount of 13.25 hours, of which 3.25 credit hours will apply to legal ethics/professional responsibility credit. The University of Texas School of Law is a State Bar of California approved MCLE provider (#1944), and an Oklahoma Bar Association MCLE presumptively-approved provider (#169).

PARKING MAP



Administrative and Public Law Section of the State Bar of Texas

The Administrative and Public Law Section of the State Bar of Texas 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.