

8th Annual Advanced Texas Administrative Law Seminar

August 29-30, 2013 • AT&T Conference Center • Austin, TX

Thursday Morning, Aug. 29, 2013

Presiding Officer:

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

7:45 am	Registration Opens Includes continental breakfast.
8:35 am	Welcoming Remarks
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Case Law Update	
8:45 am 0.50 hr	Open Government: Case Law Update and Suggested Best Practices A review of recent judicial and attorney general opinions concerning the Open Meetings Act and the Public Information Act and discussion of suggested best practices in light of current case law (or lack thereof). Topics addressed include the Fifth Circuit's decision upholding the constitutionality of the Open Meetings Act, use of electronic communication and social media by public officials, and the application of the Public Information Act to private email accounts. G. Alan Waldrop, Locke Lord LLP - Austin, TX Lori Anne Fixley Winland, Locke Lord LLP - Austin, TX
9:15 am 0.75 hr	Sovereign Immunity and Standing in UDJA and APA Declaratory Actions: Declaratory and Related Injunctive Relief Despite AG Opposition The Attorney General seeks to change standing to sue the government and sovereign immunity law. Is he right? Pete Schenckan, Graves Dougherty Hearon & Moody P.C. - Austin, TX
10:00 am	Break
10:15 am 0.50 hr	Standard of Review An overview of cases addressing standard of review. Elizabeth R. B. Sterling, Office of the Attorney General - Austin, TX Mark L. Walters, Office of the Attorney General - Austin, TX
10:45 am 0.50 hr	Exhaustion of Administrative Remedies: First Principles and Recent Developments This presentation examines the exhaustion doctrine in Texas including its rationale, exceptions, consequences and relationship to other legal doctrines; surveys recent and notable cases that apply the doctrine in various substantive areas of the law; identifies unresolved issues raised in pending cases; and comments on problem areas in the doctrine's application. Steven Baron, Steven Baron Consulting and Legal Services - Austin, TX Susan A. Kidwell, Locke Lord LLP - Austin, TX

11:15 am 0.50 hr	<p>Injunctions after <i>eBay</i>, <i>Winter</i>, and <i>Monsanto</i></p> <p>A discussion of the standards for granting injunctive relief in the wake of a series of U.S. Supreme Court cases.</p> <p>John M. Golden, The University of Texas School of Law - Austin, TX</p>
11:45 am 0.50 hr ethics	<p>Pro Bono Opportunities for Government Attorneys</p> <p>An exploration of the variety of pro bono opportunities available for government attorneys including an attorney's ethical obligation to provide pro bono services.</p> <p>Steve Elliot, Volunteer Legal Services of Central Texas - Austin, TX D'Ann Johnson, Texas RioGrande Legal Aid - Austin, TX</p>
12:15 pm	<p>Pick Up Lunch</p> <p>Included in registration.</p>
	<p>Luncheon Presentation</p>
12:30 pm 0.75 hr	<p>An Overview of the 83rd Texas Legislative Session</p> <p>Rep. Donna Howard, Texas House of Representatives - Austin, TX</p>
1:15 pm	<p>Break</p>

Thursday Afternoon, Aug. 29, 2013

Presiding Officer:

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

1:30 pm 0.50 hr	<p>What Is a Rule?</p> <p>A review of the Court's recent holdings to determine when agency statements are found to be illegal <i>ad hoc</i> rules.</p> <p>Nichole B. Bunker-Henderson, Office of the Attorney General - Austin, TX</p>
2:00 pm 0.75 hr ethics	<p>Public Interest</p> <p>A unique opportunity to hear from three non-commissioners on their roles representing the public interest for their agencies. The panel discusses what they do and how they do it, including how they identify who is the client, and how they represent the client.</p> <p>Moderator: James W. Checkley Jr., Cross Texas Transmission, LLC - Austin, TX Panelists: Kergin B. Bedell, Office of Public Insurance Counsel - Austin, TX Blas J. Coy Jr., Public Interest Counsel, Texas Commission on Environmental Quality (TCEQ) - Austin, TX Joseph P. Younger, PhD, Public Utility Commission of Texas - Austin, TX</p>

2:45 pm 0.50 hr	<p>Motion for Rehearing Update</p> <p>An examination of recent decisions concerning motions for rehearing of final agency orders in contested case proceedings and a discussion of the effort to amend the APA provisions governing the filing and disposition of such motions.</p> <p>J. Bruce Bennett, Cardwell, Hart & Bennett, L.L.P. - Austin, TX Dudley D. McCalla, Of Counsel, Jackson Walker L.L.P. - Austin, TX</p>
3:15 pm	Break
3:30 pm 0.75 hr	<p>eDiscovery: Recent Developments and Practical Applications</p> <p>Learn the latest in the evolving world of eDiscovery with practical management strategies to address those issues.</p> <p>Matthew C. Henry, Vinson & Elkins LLP - Dallas, TX</p>
4:15 pm 1.00 hr ethics	<p>Administrative Hell: What Would You Do?</p> <p>An examination of ethical dilemmas in administrative law.</p> <p>Claude E. Ducloux, Hill, Ducloux, Carnes & de la Garza - Austin, TX</p>
5:15 pm	Adjourn

Friday Morning, Aug. 30, 2013

Presiding Officer:

Kimberly L. Kiplin, Dykema Gossett PLLC - Austin, TX

8:00 am	<p>Conference Room Opens</p> <p>Includes continental breakfast.</p>
8:30 am 0.50 hr	<p>Legislative Update</p> <p>A focus on the bills enacted by the 83rd Texas Legislature that impact administrative law practitioners, including a review of the Sunset legislation.</p> <p>Thomas M. Pollan, Bickerstaff Heath Delgado Acosta LLP - Austin, TX</p>
9:00 am 1.00 hr ethics	<p>Ethics Lessons From the Michael Morton Wrongful Conviction</p> <p>A firsthand account of work on this case and the ongoing review into prosecutorial misconduct from a member of the legal team responsible for exonerating Michael Morton after serving 25 years of his life sentence.</p> <p>Patricia J. Cummings, Law Office of Patricia J. Cummings - Round Rock, TX</p>
10:00 am	Break

10:15 am 0.75 hr	<p>A Case Study</p> <p>Under Section 39.152, Texas Education Code, SOAH sits in the place of Travis County District Court to exercise final review over school district closures. Hear the pros and cons from two of the litigators.</p> <p>William C. Bednar, Law Office of William C. Bednar and Of Counsel, Powell & Leon, LLP - Austin, TX James C. Todd, Office of the Attorney General - Austin, TX</p>
11:00 am 0.50 hr	<p>Due Process Rights: What Are They and When Do You Have Them?</p> <p>The Administrative Procedure Act was enacted to "provide minimum standards of practice and procedure." When do those minimum standards apply and what are the current contours of the right to due process in Texas contested case proceedings?</p> <p>Susan Henricks, Hull Henricks LLP - Austin, TX</p>
11:30 am 0.50 hr	<p>When Is a Witness an "Expert" and Associated Ramifications</p> <p>What makes a witness an expert and how that impacts your case: a review of topics and decisions that should shape your approach.</p> <p>This session moved to 1:30 p.m.</p> <p>Andrea Moore Stover, Graves Dougherty Hearon & Moody - Austin, TX</p>
12:00 pm	<p>Pick Up Lunch</p> <p>Included in registration.</p>

Friday Afternoon, Aug. 30, 2013

Presiding Officer:

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

	Luncheon Presentation
12:15 pm 0.50 hr	<p>SOAH Update</p> <p>A review of the legislative session and a preview of what's ahead for SOAH.</p> <p>Hon. Cathleen Parsley, State Office of Administrative Hearings - Austin, TX</p>
12:45 pm	Break
1:00 pm 0.50 hr	<p>Cross-Agency Regulation of Service Contracts</p> <p>Legal and practical issues related to the regulation of risk transfer contracts, including an examination of the authority of the Texas Department of Licensing and Regulation (TDLR), the Texas Real Estate Commission (TREC), the Texas Department of Insurance (TDI), and the Office of the Attorney General (OAG).</p> <p>James E. Davis, Locke Lord LLP - Austin, TX Jon L. Gillum, Locke Lord LLP - Austin, TX</p>

1:30 pm 0.50 hr	<p>What Can a Court Do with an Agency Order?</p> <p>An examination of the procedural relief some Texas courts have granted in conjunction with their reversal of agency orders, and how some courts' treatment of these issues have been inconsistent.</p> <p>This session moved to 11:30 a.m.</p> <p>Patrick J. Pearsall, Duggins Wren Mann & Romero, LLP - Austin, TX</p> <p>Materials By: Marnie Ann McCormick, Duggins Wren Mann & Romero, LLP - Austin, TX</p>
2:00 pm 0.50 hr	<p>Judicial Review of Contingent Conditions</p> <p>The interplay between ripeness and finality in administrative appeals.</p> <p>Ron H. Moss, Winstead PC - Austin, TX</p>
2:30 pm 1.00 hr	<p>Judicial Panel</p> <p>An unscripted round-robin discussion allowing time for questions at the end.</p> <p>Moderator: Hon. Diane M. Henson, Ikard Wynne LLP - Austin, TX</p> <p>Panelists: Hon. Jeffrey S. Boyd, The Supreme Court of Texas - Austin, TX Hon. J. Woodfin "Woodie" Jones, Third Court of Appeals - Austin, TX Hon. Timothy M. Sulak, 353rd Judicial District Civil Court - Austin, TX</p>
3:30 pm	<p>Adjourn</p>