

9th Annual Advanced Texas Administrative Law Seminar
August 21-22, 2014 • AT&T Conference Center • Austin, TX

Thursday Morning, Aug. 21, 2014

Presiding Officer:

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

7:30 am	Registration Opens Includes continental breakfast.
8:35 am	Welcoming Remarks
8:45 am 0.50 hr	New and Noteworthy Administrative Law Cases Discussion of selected administrative law cases of interest recently decided by or pending before the courts. Steven Baron, Baron Consulting and Legal Services - Austin, TX Materials By: Dylan O. Drummond, K&L Gates LLP - Austin
9:15 am 0.50 hr	Open Government Update An exploration of recent developments and best practices in open government law from the perspectives of the Open Records Division of the Office of the Attorney General and a private practitioner, with discussion of the Public Information Act and the Open Meetings Act. Lauren E. Kleine, Office of the Attorney General - Austin, TX Lori Anne Fixley Winland, Locke Lord LLP - Austin, TX
9:45 am 0.75 hr	Chapter 2260—Texas’ Chimeric Alternative to Suits Against the State Challenges to sovereign immunity in the 1990s led to the Legislature’s creation of a process that is part contract claim, part administrative procedure, and part legislative advice. Explore the origins and practical realities of Texas Government Code Chapter 2260. Rob Schneider, Office of the Attorney General - Austin, TX Patrick F. Thompson, Graves, Dougherty, Hearon & Moody - Austin, TX
10:30 am	Break
10:45 am 0.50 hr	Rulemaking without the APA A comprehensive review of <i>ad hoc</i> rulemaking in Texas law with comparisons to federal administrative law. Donald N. Walker, Stone Loughlin & Swanson, LLP - Austin, TX

11:15 am 1.00 hr	<p>eFiling: How To</p> <p>How does eFiling work? A lesson on how to eFile at SOAH and in district and appellate courts.</p> <p>Hon. Wendy K. L. Harvel, State Office of Administrative Hearings, Utilities - Austin, TX Hon. Travis E. Vickery, State Office of Administrative Hearings - Austin, TX Velva L. Price, Clark, Price & Trevino - Austin, TX Carla McElroy, Travis County - Austin, TX Lisa Bowlin Hobbs, Kuhn Hobbs PLLC - Austin, TX Materials By: Michelle Brinkman, Travis County - Austin, TX</p>
12:15 pm	<p>Pick Up Lunch</p> <p>Included in registration.</p>

Thursday Afternoon, Aug. 21, 2014

Presiding Officer:

Kimberly A. Frost, Martin Frost & Hill - Austin, TX

Luncheon Presentation

12:35 pm 0.50 hr	<p>Legislative Preview: What Administrative Lawyers Need to Know</p> <p>A look at the Legislature's work over the interim and a 2015 Legislative session preview of the major issues that are of interest to administrative and government law practitioners.</p> <p>Denise Davis, Davis Kaufman PLLC - Austin, TX</p>
1:05 pm	<p>Break</p>
1:20 pm 0.50 hr	<p>Regulatory Takings</p> <p>The tension between government agency regulation and private property rights is receiving increased attention from Texas courts. A review of the fundamentals of takings law and recent application by the judiciary.</p> <p>Julie Anne Ford, George Brothers Kincaid Horton - Austin, TX</p>
1:50 pm 0.50 hr	<p>Supersedeas: Is it a One-way Street?</p> <p>The State likes to think it can supersede any judgment against it by filing a Notice of Appeal, but opposing parties have other ideas.</p> <p>Mark W. Robinett, Brim, Arnett, Robinett & Conners, P.C. - Austin, TX</p>

2:20 pm 0.50 hr ethics	<p>Texas Duties to Report Misconduct</p> <p>In-depth coverage of broad legal and ethical duties to report misconduct to state government. Rather than focusing on the nuts and bolts of regular administrative reporting obligations, areas of uncertainty regarding the scope of the duty to report, as well as practical issues regarding select statutory duties, are considered.</p> <p>James E. Davis, Locke Lord LLP - Austin, TX Jon L. Gillum, Locke Lord LLP - Austin, TX</p>
2:50 pm	Break
3:00 pm 0.50 hr	<p>Extraordinary Relief: Mandamusing SOAH and Interim Appeals to Agency or Court from SOAH</p> <p>An examination of the availability of appellate, mandamus and other remedies to challenge the interlocutory orders of administrative law judges in contested case proceedings and the fora in which such remedies may be sought.</p> <p>J. Bruce Bennett, Cardwell, Hart & Bennett, L.L.P. - Austin, TX Colleen M. Regester, Third Court of Appeals - Austin, TX Linda B. Secord, Office of the Attorney General - Austin, TX</p>
3:30 pm 0.75 hr ethics	<p>A Quick and Dirty Guide to Technology in Law</p> <p>An overview of the ethical obligation for lawyers to stay informed regarding current technology.</p> <p>Dirk M. Jordan, Jordan Law Firm - Austin, TX</p>

SOAH Judges Panels

4:15 pm 0.50 hr 0.25 hr ethics	<p>SOAH Judges Panel: Team Leaders</p> <p>Update of current team activities and any proposed changes from SOAH's Team Leaders.</p> <p>Moderator: Hon. Thomas H. Walston, State Office of Administrative Hearings, General Counsel - Austin, TX</p> <p>Panelists: Hon. John Holt Beeler, State Office of Administrative Hearings, Administrative License Revocation & Field Enforcement - Austin, TX Hon. Gary W. Elkins, State Office of Administrative Hearings, Economic - Austin, TX Hon. Wendy K. L. Harvel, State Office of Administrative Hearings, Utilities - Austin, TX Hon. Suzanne Marshall, State Office of Administrative Hearings, Licensing & Enforcement - Austin, TX Hon. William G. Newchurch, State Office of Administrative Hearings, Natural Resources - Austin, TX Hon. Renee M. Rusch, State Office of Administrative Hearings, Alternative Dispute Resolution - Austin, TX Hon. Victor John Simonds, State Office of Administrative Hearings, Tax - Austin, TX</p>
4:45 pm 0.50 hr	<p>SOAH Judges: Best Practice Tips</p> <p>Best practice tips including <i>pro se</i> representation.</p> <p>Hon. Hunter W. Burkhalter, State Office of Administrative Hearings - Austin, TX Hon. Joanne Marie Summerhays, State Office of Administrative Hearings - Austin, TX</p>
5:15 pm	Adjourn

Friday Morning, Aug. 22, 2014

Presiding Officer:

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

7:30 am	Conference Room Opens Includes continental breakfast.
8:30 am 0.75 hr	Hybrid Administrative Practice: Groundwater Districts Groundwater in Texas is privately owned but regulated by locally elected directors of groundwater districts. An examination of the high-stakes vagary of administrative practice before these districts combining elements of the APA with local politics, rules and procedures. William D. Dugat III, Bickerstaff Heath Delgado Acosta LLP - Austin, TX Steve Kosub, San Antonio Water System - San Antonio, TX
9:15 am 0.50 hr	Prehearing Restrictions Discussion of many of the options available to agencies to impose immediate sanctions, prior to adjudicating cases on their merits, the basis for such actions and the later relief available. Scott M. Freshour, Texas Medical Board - Austin, TX Michael R. Sharp, Sharp & Cobos - Austin, TX
9:45 am 0.50 hr	Recent Developments and Questions Regarding Texas Occupational Code Chapter 53 Recent dissimilar (and interesting) interpretations of the law, how different agencies approach the law, and the effect of different criminal adjudications in agency licensing decisions. Jason Ray, Riggs Aleshire & Ray, P.C. - Austin, TX
10:15 am 0.50 hr	You've Been Warned: Reprimands in Texas Administrative Law An examination of the informal reprimand practices of Texas state agencies and the complex procedural issues they raise, including the source of authority and consequences. Leah Barnett Gillum, Texas Department of Insurance - Austin, TX Amanda Rapp Meesey, Texas Department of Insurance - Austin, TX
10:45 am	Break
11:00 am 0.50 hr	Trade Secrets Protective orders, hearing procedures and other ways to address protection of trade secrets in an administrative agency contested case. Hon. Elizabeth Drews, State Office of Administrative Hearings - Austin, TX

11:30 am 0.75 hr	<p>Deference to Agency Interpretation of Statutes: Whether, When and How to Give It</p> <p>The Texas Supreme Court has declined to formally adopt the federal <i>Chevron</i> deference standard. The Court has nevertheless given deference to agency interpretations of statutes. Federal and state deference cases are discussed with debate on the policy considerations for and against giving that deference.</p> <p>Moderator: Dudley D. McCalla, Jackson Walker L.L.P. - Austin, TX</p> <p>Panelists: Mary A. Keeney, Graves, Dougherty, Hearon & Moody - Austin, TX Linda B. Secord, Office of the Attorney General - Austin, TX</p>
12:15 pm	<p>Pick Up Lunch</p> <p>Included in registration.</p>

Friday Afternoon, Aug. 22, 2014

Presiding Officer:

Kimberly L. Kiplin, Duggins Wren Mann & Romero, LLP - Austin, TX

Luncheon Presentation

12:35 pm 0.75 hr ethics	<p>Lawyer on the Board</p> <p>Lawyers have a long tradition of serving on boards of charitable and civic organizations on a voluntary basis. This relationship often causes the attorney to wear two hats—that of board member and that of lawyer to the organization. Learn how to navigate the various ethical issues that arise when a lawyer is on the board.</p> <p>Dorothy Ann "D'Ann" Johnson, Texas RioGrande Legal Aid - Austin, TX</p>
1:20 pm	<p>Break</p>
1:35 pm 0.50 hr	<p>Taxes in Administrative Law</p> <p>Protecting taxpayers' rights at the agency level and in court.</p> <p>Dudley D. McCalla, Jackson Walker L.L.P. - Austin, TX Steven D. Moore, Jackson Walker L.L.P. - Austin, TX</p>
2:05 pm 0.75 hr ethics	<p>Being Sisyphus: The Moral Tribulations of Agency Counsel</p> <p>Let us pity the beleaguered agency counsel, beset on all sides with demanders, detractors and moral conundrums. Between the People, the Legislature, the "Boss" and Rule 1.12, who is the client and where lies loyalty and obligation anyway? Who owns the privilege of confidentiality when the Legislature—or a prosecutor—comes sniffing around? Once agency counsel has told his/her fellow employees what the law might or might not say, what more is to be made of that "special obligation for the quality of justice" that the Bar rules so ominously hint at?</p> <p>Lou Bright, Martin Frost & Hill - Austin, TX</p>

2:50 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. Howard S. Seitzman, State Office of Administrative Hearings - Austin, TX</p> <p>Panelists: Hon. Jeffrey S. Boyd, The Supreme Court of Texas - Austin, TX Hon. Amy Clark-Meachum, 201st Judicial District Civil Court - Austin, TX Hon. J. Woodfin "Woodie" Jones, Third Court of Appeals - Austin, TX</p>
3:50 pm	Adjourn
	Speaker Contacts and Bios