UT LAW CLE Continuing Legal Education

15th Annual Advanced Texas Administrative Law Seminar
September 3-4, 2020 • Live Webcast

Thursday Morning, Sep. 3, 2020

Presiding Officer:
Andrea Moore Stover, Baker Botts, LLP - Austin, TX

8:20 am	**Welcoming Remarks**
8:30 am 0.50 hr	**Case Law Update: Part I** Examine significant administrative law cases issued during the last year. Matthew Arth, Locke Lord LLP - Austin, TX Carrie Collier-Brown, Locke Lord LLP - Austin, TX Materials By: Wellesley Anna DuBois, Texas Tech University School of Law - Lubbock, TX Raul A. Romero, Texas Tech Law Review - Lubbock, TX
9:00 am	**5-Minute Break**
9:05 am 0.75 hr	**Open Government Update** Updates on the Public Information Act and Open Meetings Act, including lessons learned about maintaining transparency in the time of coronavirus. Kimberly G. Kelley, Bickerstaff Heath Delgado Acosta LLP - Austin, TX
9:50 am	**5-Minute Break**
9:55 am 0.75 hr	**Navigating Your Licensing Case Pre-SOAH** Have you ever regretted not pursuing an action or negotiation prior to SOAH? Have you ever thought there might be alternative ways to settle your case prior to SOAH that no one ever uses? And was there ever a time you wished you would have worked-up your licensing case during the agency's investigation instead of after the SOAH complaint filing? This presentation's goal is to alleviate these concerns and answer these questions. Franklin Hopkins, Germer Beaman & Brown PLLC - Austin, TX Barbara Jordan, Germer Beaman & Brown PLLC - Austin, TX
10:40 am	**5-Minute Break**
10:45 am 0.75 hr	**Ad-Hoc Rulemaking** An examination of ad-hoc rulemaking in state and federal administrative proceedings from the perspective of both government agencies and counsel representing regulated entities. Rob Johnson, Foley & Lardner LLP - Austin, TX Andres S. Medrano, Foley & Lardner LLP - Austin, TX

11:30 am	**5-Minute Break**
11:35 am 0.50 hr	**A Preview of Sunset Legislation During the 2021 Legislative Session** Examine the completed staff reviews for the agencies subject to Sunset review during the 2020-2021 biennium and touch upon the potential areas of legislative focus during the upcoming session. Tamara Aronstein, Sunset Advisory Commission - Austin, TX Steven M. Ogle, Sunset Advisory Commission - Austin, TX
12:05 pm	**Break for Lunch—Presentation Resumes at 12:30 p.m.**

Thursday Afternoon, Sep. 3, 2020

Presiding Officer:
Franklin Hopkins, Germer Beaman & Brown PLLC - Austin, TX

LUNCHEON PRESENTATION

12:30 pm 1.00 hr	**Agency Spotlight: State Office of Administrative Hearings** SOAH is entering the 21st Century. Explore upcoming changes in document management, case assignments, and procedural rules, and find out what lessons SOAH's coronavirus response has taught us about remote hearings. Hon. Kristofer S. Monson, State Office of Administrative Hearings - Austin, TX Hon. Victor John Simonds, State Office of Administrative Hearings - Austin, TX Shane Linkous, State Office of Administrative Hearings - Austin, TX
1:30 pm	**5-Minute Break**
1:35 pm 0.50 hr	**Introduction to the Office of the Governor's Regulatory Compliance Division** The Regulatory Compliance Division conducts an independent review of certain state licensing agencies' proposed rules that affect market competition. Authorized by the legislature in response to the United States Supreme Court's decision in *North Carolina State Board of Dental Examiners v. FTC*, the division provides the "active supervision" needed over rulemakings so that state boards controlled by active market participants can invoke state-action antitrust immunity. Explore the background, procedures, and work of the division since its establishment in 2019. Erin Bennett, Office of the Governor - Austin, TX
2:05 pm	**5-Minute Break**
2:10 pm 0.50 hr	**Rulemaking: Governor Abbott's Participation in the Process** Governor Abbott unilaterally asserts control over all rulemaking by state agencies. Such power is exercised wholly in private. Constitutional? Ron Beal, Baylor Law School - Waco, TX
2:40 pm	**5-Minute Break**
	Judicial Panel

2:45 pm 1.00 hr	Engage in an unscripted round-robin discussion, with time for questions from the audience. **Please submit your questions in advance to ConferenceQA@utcle.org.** Moderator: Hon. David D. DuBose, State Office of Administrative Hearings - Austin, TX Panelists: Hon. J. Brett Busby, The Supreme Court of Texas - Austin, TX Hon. Maya Guerra Gamble, 459th District Court - Austin, TX Hon. Jeff Rose, Third Court of Appeals - Austin, TX
3:45 pm	**5-Minute Break**
3:50 pm 0.50 hr	**Data Security: The Texas Identity Theft Enforcement and Protection Act and Other Considerations** Review changes to ITEPA and a look at the new web portal for reporting data breaches. Explore recent enforcement actions and learn about privacy considerations, including breach preparedness for government and private sector practitioners. Esther Chavez, Office of the Attorney General - Austin, TX Adrian P. Senyszyn, MehaffyWeber, P.C. - San Antonio, TX
4:20 pm	**5-Minute Break**
4:25 pm 0.75 hr ethics	**How to Ethically Build Diverse Relationships in the Legal Profession** Law is one of the most relational and least diverse professions in the country. Learn how to ethically address and overcome the challenges of building diverse relationships in the legal space. Explore a guide for attorneys through the pitfalls of achieving meaningful diversity and inclusive relationships in their practice, discuss tools to intentionally build and strengthen diverse relationships, and receive practical techniques to make your practice a safe and inclusive place for the diverse and non-diverse to work together. Chris W. Kirby, BridgeField Group - Austin, TX Dominica McGinnis, BridgeField Group - Austin, TX
5:10 pm	**Adjourn**

Friday Morning, Sep. 4, 2020

Presiding Officer:
Hon. Holly Vandrovec, State Office of Administrative Hearings - Austin, TX

8:30 am 0.50 hr	**Case Law Update: Part II** Examine significant administrative law cases issued during the last year. Matthew Arth, Locke Lord LLP - Austin, TX Carrie Collier-Brown, Locke Lord LLP - Austin, TX Materials By: Wellesley Anna DuBois, Texas Tech University School of Law - Lubbock, TX Raul A. Romero, Texas Tech Law Review - Lubbock, TX
9:00 am	**5-Minute Break**
9:05 am 0.50 hr	**Back to Basics: Administrative Procedures Act**

	Texas' framework for administrative hearings and rule-making is 45 years old. Explore its origin, evolution, current applicability, and future challenges. Leah Gillum, Texas Department of Insurance - Austin, TX
9:35 am	**5-Minute Break**
9:40 am 1.00 hr ethics	**Both Sides Now: When Lawyers Go Too Far** Explore the ethical and practical concerns from the perspectives of opposing counsel. Discuss the strategies for maintaining courtesy and professionalism without compromising the obligation to zealously represent clients. Hear about the ethical challenges faced by government lawyers when adverse parties are pro se. Cynthia Canfield Hamilton, Employees Retirement System of Texas - Austin, TX Jennifer S. Riggs, Riggs & Ray, P.C. - Austin, TX
10:40 am	**5-Minute Break**
10:45 am 0.75 hr	**Substantial Evidence Standard Review: What is Mere Scintilla Anyway?** Examine what the substantial evidence standard of review means, including a discussion of past and present case law. Kellie E. Billings-Ray, Office of the Attorney General - Austin, TX
11:30 am	**5-Minute Break**
11:35 am 0.50 hr	**Regulatory Takings** Governmental authority to regulate in Texas is exercised subject to state and federal constitutional limitations on the taking of private property without compensation. Explore these limitations and the consequences of regulation that goes too far. Steve Kosub, Sprouse Shrader Smith PLLC - Austin, TX
12:05 pm	**5-Minute Break**
12:10 pm 0.50 hr	**Persuasive Advocacy** Presenting effective arguments in administrative proceedings. Benjamin Hallmark, Thompson Knight LLP - Austin, TX
12:40 pm	**Break for Lunch—Presentation Resumes at 1:05 p.m.**

Friday Afternoon, Sep. 4, 2020

Presiding Officer:
William D. Dugat III, Bickerstaff Heath Delgado Acosta LLP - Austin, TX

LUNCHEON PRESENTATION

1:05 pm 0.50 hr	**Riding the Magic Unicorn: Practicalities of Filing at SOAH and the Travis County District Court** EFiling at the State Office of Administrative Hearings can be a little different from eFiling in the courts.

	Learn about what SOAH needs to have to ensure your eFiling is accepted. Lesley Martin Ondrechen, State Office of Administrative Hearings - Austin, TX Velva L. Price, Travis County District Clerk - Austin, TX
1:35 pm	**5-Minute Break**
1:40 pm 0.50 hr	**Pre-Litigation: Alternative Means to Resolving Cases before SOAH** A focus on informal proceeding processes at various state agencies to resolve agency investigations. Explore statutory and agency rule authority granting informal resolution of investigations prior to formal proceedings at SOAH. Rodney Montes, Montes Law Practice - Austin, TX
2:10 pm	**5-Minute Break**
2:15 pm 0.75 hr	**The Art of Persuasion: Winning at SOAH** To organize and present an effective case, you need to understand not just the law, but also what will genuinely be persuasive to the judge. Explore effective ways to frame a persuasive case and to organize evidence and arguments to support it. Craig Bennett, Jackson Walker LLP - Austin, TX Jason Ray, Riggs & Ray, P.C. - Austin, TX
3:00 pm	**5-Minute Break**
3:05 pm 0.50 hr ethics	**Ethics, Tips, and Best Practices for Settling Cases with Multiple Clients** Representing multiple parties with claims in the same matter presents sensitive issues involving disclosure, potential conflicts, and ethical dangers. Discuss these central issues—1) What groundwork do you need to lay to create an atmosphere where settlement is possible?; 2) What strategies must you follow to effect an ethical settlement with limited funds?; and 3) And when do you need to withdraw? Claude E. Ducloux, Attorney at Law - Austin, TX
3:35 pm	**Adjourn**