



# The NAALJ News

Volume 13, Number 1

The Newsletter of the National Association Of Administrative Law Judges

## From the Editors ::

**THIS IS THE INAUGURAL ISSUE OF THE ELECTRONIC VERSION OF THE NAALJ NEWS. IN KEEPING WITH THE GROWTH OF TECHNOLOGY, AND ITS APPLICABILITY TO THE WORLD OF ADMINISTRATIVE ADJUDICATION, WE ARE ATTEMPTING TO UTILIZE AS MUCH ELECTRONIC MEDIA AS POSSIBLE – LET US KNOW WHAT YOU THINK.**

### 2002 MIDYEAR CONFERENCE SCHEDULED IN MINNEAPOLIS

by Steve Mihalchick

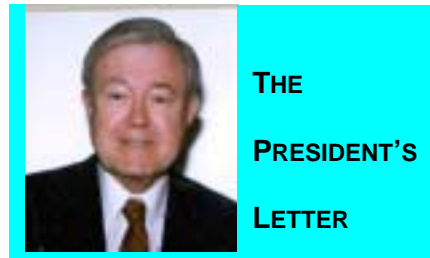
You will find education and fun at the NAALJ/NCALJ Midyear Conference in Minneapolis, Minnesota, June 9-11. We have assembled several high quality presenters to give you more tools to become a better judge. The Minneapolis area offers you an incredible selection of dining, shopping, entertainment, sports, and sight-seeing.

The Conference will be held at the University of Minnesota Law School on the West Bank of the Mississippi River on the southeast edge of downtown Minneapolis. Your hotel is the Holiday Inn Minneapolis Metrodome, located just one short block from the Law School. Call 1-800-448-3663 by May 17 to receive the NAALJ/NCALJ Midyear Conference rate of \$91.00 per night, plus 12 percent for lodging and sales taxes. Check the hotel's website at [www.metrodome.com/](http://www.metrodome.com/) for more information about the hotel, University, and Metrodome. For more information about Minneapolis, check [www.minneapolis.org](http://www.minneapolis.org) or [www.twincities.com](http://www.twincities.com).

We are proud to present Judge Richard S. Brown of the Court of Appeals of Wisconsin speaking on Judicial Decision-Making. Since 1990, he has been a faculty member at the National Judicial College in Reno, Nevada, where he presently teaches decision-making skills. Also from the Court of Appeals of Wisconsin, we have District Staff Attorney Ronald R. Hofer to teach Judicial Decision Writing. He is currently an adjunct associate professor of law at Marquette University Law School, teaching appellate advocacy. Mr. Hofer has been on the faculty of the National Judicial College since 1994, where he teaches opinion writing in a variety of courses for administrative law judges, state and tribal trial judges and appellate judges and justices. Judge Brown and Mr. Hofer have been highly recommended to us.

We have asked back three people who have provided excellent training for the Minnesota Office of Administrative Hearings: District Judge James A. Morrow on Evidence, and Law Professors Stephen Simon and John Sonstang on "Techniques for Handling Difficult Hearing Situations" and "Hearing Techniques for Dealing with Difficult Attorneys and Parties."

Professor Greg Ogden, Faculty Advisor for the NAALJ Journal, will provide a case law update. Several other excellent speakers will present information you can use today. See the course brochure, available on the NAALJ website <http://www.NAALJ.org>, for more details. There are also many more details as well as an application blank later on in this newsletter. The conference fee is \$225 for NAALJ/NCALJ members who register by May 1. We invite you to join us in June.



### THE PRESIDENT'S LETTER

By Larry Craddock

Dear Member of the National Association of Administrative Law Judges:

It is a great privilege to be the NAALJ president. Here are some thoughts that I want to share with you.

First, NAALJ recognizes and sincerely thanks the members of the Texas Association of Professional Administrative Adjudicators (TAPAA) for their hard work in making the 2001 annual training meeting and conference a great success. Opportunities to train and exchange information were excellent. Both TAPAA and NAALJ benefitted financially from the conference and I have received many,

many compliments on it from all around the country.

Second, no organization like NAALJ succeeds without the work of many people. I particularly want to recognize and say "thank you" to veteran NAALJ members Stan Cygan, Willie Thompson, John Hardwicke, Ed Schoenbaum, Julian Mann, Ed Felter, and Ann Breen-Greco for giving freely of their time and efforts, year-in and year-out, over the course of all the years I have belonged to NAALJ.

Third, special thanks and recognition are due to Laura Bierman, for her continued and continuing support for all our activities as our contract staff person. Special thanks and recognition are also due to our Journal editor, Professor Greg Ogden of the Pepperdine Law School and his students, and to our newsletter editors, Noreen Lynch, Lynda Lee Moser, and Mike Nolan. Their contributions to the success of our organization are very substantial.

Fourth, a special thanks to my predecessor, Bryan McDaniel, who served as NAALJ president during the past year and to this year's officers, the President-elect, Janet Thompson, our Treasurer, Chris Graham, and our Secretary, Susie Bargo.

In the coming year NAALJ will focus on strengthening its relationship with its members, its affiliates, the public, and with other organizations with similar goals such as the National Conference of Administrative Law Judges, American Bar Association. Constructive criticism and suggestions for improved service will be most welcome. Please drop me an e-mail with suggestions as to how we might improve our organization to provide better and more useful service to you. ([lcraddock@banking.state.tx.us](mailto:lcraddock@banking.state.tx.us)).

I very much look forward to working with our officers and committees in the coming year. Thanks and let me hear from you - Larry

**YODER APPOINTED AS NAALJ  
LIAISON TO ALJ SUMMIT  
COORDINATING COMMITTEE**

President Craddock has appointed the Honorable Ronnie Yoder, Chief ALJ for the US Department of Transportation, as NAALJ Liaison to the ALJ Summit Coordinating Committee.

The ALJ Summit Coordinating Committee consists of ALJs from various organizations including the Federal Administrative Law Judges Conference (FALJC), the Association of ALJs (AALJ), the National Conference of ALJs (NCALJ), FORUM, the Federal Bar Association, and others.

Judge Craddock stated that Judge Yoder will attend the Summit meeting to be held in Washington, D.C., on February 27, 2002, on behalf of NAALJ and will report back to the NAALJ Board of Governors. He added, "We thank Judge Yoder for his service as NAALJ liaison to this committee. NAALJ is fortunate to have him represent us. NAALJ looks forward to working with these other organizations for advancement of the administrative judiciary."

**BECOMING A BETTER JUDGE  
NAALJ/NCALJ 2002 MIDYEAR  
EDUCATIONAL CONFERENCE**

**June 8, 2002 – June 11, 2002**  
UNIVERSITY OF MINNESOTA LAW SCHOOL,  
MINNEAPOLIS, MN

**Saturday, June 8, 2002**  
1:00 p.m. NAALJ Board of Governors Meeting

6:00 p.m. Board of Governors Reception and Dinner

**Sunday, June 9, 2002**  
1:00 p.m. Registration opens

3:00 p.m.  
**The Importance of Judicial Ethics in  
Administrative Adjudication**

4:00 p.m.  
**Discussion Panel on Ethics for  
Administrative Law Judges**

5:00 p.m. Reception for Attendees

**Monday, June 10, 2002**  
8:15 a.m. Registration opens

9:00 a.m.  
Welcome and keynote addresses

10:00 a.m.

Select one of three sessions offered:

**Evidence for Administrative Law  
Judges**

**Scenes from a Hearing: Judicial  
Demeanor and Conduct of the  
Hearing**

**Techniques for Handling  
Difficult Hearing Situations**

**12:00 Noon Lunch provided**

1:00 p.m.  
Repeat of 10:00 a.m. offerings

3:30 p.m.  
Select one of three sessions:

**Judicial Development Programs**

**Administrative Law Case Law  
Update**

**Workers Compensation Case  
Law Update**

**Tuesday, June 11<sup>th</sup>**  
8:15 a.m. Registration opens

9:00 a.m.  
**Judicial Decision-Making**

Noon Lunch on your own

1:30 p.m.  
**Judicial Decision Writing**

4:30 p.m. Conference ends

**F A C U L T Y**

**Hon. Ken Nickolai**  
Chief Administrative Law Judge  
Minneapolis, MN

**Cynthia Gray**  
American Judicature Society  
Chicago, IL

**Hon. Ed Felter**  
Senior Administrative Law Judge, NCALJ  
Immediate Past Chair  
Denver, CO

**Hon. Bruce D. Willis**  
Judge, Minnesota Court of Appeals  
St. Paul, MN

**Gregory L. Ogden**  
Pepperdine University, Professor of Law  
Malibu, CA

**Hon. Richard S. Brown**  
Judge, Wisconsin Court of Appeals  
Waukesha, WI

**Ronald R. Hofer**  
District Staff Attorney, Wisconsin Court of Appeals  
Marquette University Law School, Adjunct Professor, Waukesha, WI

**Hon. Edward Toussaint, Jr.**  
Chief Judge,  
Minnesota Court of Appeals  
St. Paul, MN

**Hon. Alexander P. White**  
Judge, Circuit Court of Cook County  
Chicago, IL

**Maury S. Landsman**  
University of Minnesota Law School,  
Professor of Clinical Instruction  
Minneapolis, MN

**Hon. James A. Morrow**  
District Court Judge, Tenth Judicial Circuit  
Anoka, MN

**Stephen M. Simon**  
University of Minnesota Law School,  
Professor of Clinical Instruction  
Minneapolis, MN

**John O. Sonstang**  
William Mitchell College of Law,  
Professor of Law  
St. Paul, MN

**A REGISTRATION FORM FOR THIS  
CONFERENCE CAN BE FOUND ON THE LAST  
PAGE OF THIS NEWSLETTER**

The NAALJ News is published twice each year by the National Association of Administrative Law Judges. The current editors of the Newsletter are Judge Lynda Lee Moser and Judge Noreen A. Lynch. Inquiries can be directed to Judge Moser at the Georgia Office of State Administrative Hearings, 235 Peachtree St., NE Ste 700, Atlanta, Ga 30303, or to Judge Lynch at the Maryland Office of Administrative Hearings, 11101 Gilroy Road, Hunt Valley, Maryland, 21031. Newsletter production questions can be directed to Judge A. Michael Nolan at the Maryland Office of Administrative Hearings, 11101 Gilroy Road, Hunt Valley, Maryland, 21031. General Inquiries may be directed to NAALJ, P.O. Box 418 Glenview, Illinois 60025-0418 E-mail: [NAALJ@aol.com](mailto:NAALJ@aol.com). The NAALJ website is <http://www.naalj.org>.

The views expressed herein are those of the authors and are not necessarily those of the NAALJ or the government agencies and offices by whom the authors of the articles are employed. We reserve the right to edit articles in accord with space limitations.

## DISTRICT OF COLUMBIA ADOPTS CENTRAL HEARING PANEL LEGISLATION

by Peter Willner,  
Council for Court Excellence

On November 6, 2001 the Council of the District of Columbia adopted the "Office of Administrative Hearings Establishment Act of 2001," (Bill 14-208). The bill will consolidate within the District's Executive Branch the adjudicatory functions of 9 agencies and several other classes of adjudicatory matters. The legislation will be formally enacted upon a 30 legislative day "layover" period in Congress, expected sometime in mid-February 2002.

The law prescribes that the new agency begin operations by October 1, 2003, and the Mayor may affirmatively opt for a one-year delay for any portion of its authority. Barring such an action by the Mayor, the law expects the following functions to be operational within the new agency on the following schedule:

By October 1, 2003:

Board of Appeals and Review;

Department of Consumer and  
Regulatory Affairs;

Department of Banking and Financial  
Institutions;

Department of Health;

Department of Human Services;

Tax-related issues heard by the Office  
of Tax and Revenue;

Licensing and enforcement matters  
under rules issued by the Child and  
Family Services Agency;

Matters relating to the youth  
Residential Facilities Licensure Act of  
1986; and

Litter control and illegal dumping  
hearings.

By October 1, 2004:

Department of Employment Services  
(other than workers' compensation  
hearings)

Special education hearings heard by the  
DC Public Schools; and

Taxicab Commission.

The Office of Administrative Hearings Establishment Act of 2001 was the result of a multi-year good government collaboration by Mayor Anthony Williams' Administration, the DC Council (including the Act's co-sponsors Judiciary Committee Chair Kathy Patterson and Government Operations Committee Chair Sharon Ambrose) and the Council for Court Excellence, a local non-profit court reform organization.

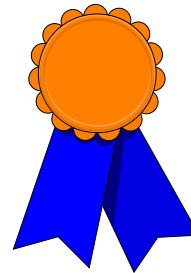
First introduced in 1994 by then-DC Council member John Ray, the push to establish a centralized administrative hearings agency in DC gained impetus in 1999 when the DC Office of the Corporation Counsel engaged the Council for Court Excellence ("CCE") to examine all facets of DC's Executive Branch adjudicatory system. CCE filed its major policy report in September 1999, entitled *Creating a Unified Administrative Hearings Agency in the District of Columbia*. The report found that over twenty separate DC agencies adjudicate over 200,000 cases per year arising from their administrative law enforcement and regulatory missions. Most significant, CCE reported that across these twenty plus agencies, there is "a wide disparity in the qualification of hearing officers, in the timeliness of hearing decisions, and in the independence of hearing officers from agency participation in their adjudicatory function." Further, CCE noted that a number of DC agency adjudicatory units were underfunded to the extent that "trained hearing officers spent substantial portions of their time handling clerical and administrative duties as opposed to ruling on contested cases."

The report recommended that the establishment of a central hearing panel by the DC Government would enhance the perceived independence of hearing officers, promote due process, heighten accountability, and in time improve the cost effectiveness of the adjudicatory process.

In the course of its study, CCE found that over 20 jurisdictions across the nation, including the cities of Chicago and New York, had implemented similar centralized administrative justice reform measures. The DC Office of Administrative Hearings Establishment Act of 2001 utilized as models legislation from Maryland and the American Bar Association Model Act.

The Council for Court Excellence is a Washington, DC-based non-profit organization that brings together members of the civic, legal, judicial and business communities to work in common purpose to improve the administration of justice in the local and federal courts and related agencies in the District of Columbia.

## NAALJ BOARD MEMBER TO RECEIVE AWARD



NAALJ Board member, Hon. Ann Breen-Greco, will receive the Illinois Institute of Technology (IIT) Women's Network Julia Beveridge Award for 2002. The award is named after the woman

who held the position of first Register of Armour Institute and librarian of Armour Mission. Ms. Beveridge has been recognized for her work with neighborhood children, instilling in them a love of books and for her lifelong commitment to nurturing the talent of young women and men. The annual presentation of the award recognizes the importance of such commitment to IIT and the community. Judge Breen-Greco attended Chicago Kent College of Law, which is part of IIT, and is the Chair of the IIT Women's Outreach and Resource Center board.

## NOMINATION REQUESTS FOR OFFICERS AND BOARD DUE BY MAY 1, 2002

NAALJ Nominating Committee Chair Bryan McDaniel urges all those interested in being nominated to serve as an officer or member of the NAALJ Board of Governors to submit your names to him via email at [bmcdaniel@adminlaw.state.la.us](mailto:bmcdaniel@adminlaw.state.la.us) or, if email is not available to you, then mail them to him in care of the Louisiana Division of Administrative Law, P.O. Box 44033, Baton Rouge, LA 70804-4033.

Women and minorities, as well as federal, state, and local ALJs from all regions of the country, are encouraged to apply for nomination in order to further the organization's commitment to diversity, address issues of discrimination and bias in administrative agencies, and broaden the perspective of the organization and all its members.

Include with your application letter a resume of your experience, qualifications, and reasons for wanting to serve. A notice of the nominations will appear in the summer NAALJ newsletter.

**The deadline for submitting a request is  
May 1, 2002.**

R. Bryan McDaniel

## THE 2002 NAALJ FELLOWSHIP GOES INTERNATIONAL

by Edwin L. Felter, Jr

Several of us attended the June 2001 Council of Canadian Administrative Tribunals' (CCAT) program, "In Search of Universal Values in Administrative Justice," in Quebec City. Among the attendees from our ranks were Tyrone Butler, Ann Young, Bryan McDaniel, Bruce Cooper and me. In anticipation of this program and to increase our international perspective on administrative justice, the Fellowship Committee decided that the 2002 topic should be "Comparing an Aspect, or All Aspects, of the U.S. System of Administrative Justice with the System of Another Country, or Other Countries."



**Hon. Edwin Felter introduces Lara Manzione, the 2001–2002 Fellow, at the Annual Meeting in Austin**

April 30, 2002 is the deadline for application submissions, which should consist of an abstract or an introduction to the paper, with a writing sample, CV, and a list of publications. Submissions should be made to me, Edwin L. Felter, Jr., Senior Administrative Law Judge, Colorado Division of Administrative Hearings, 1120 Lincoln Street, Suite 1400, Denver, Colorado 80203. Tel: (303) 764-1417 – direct; Fax (303) 764-1401; e-mail: [ed.felter@state.co.us](mailto:ed.felter@state.co.us) E-mail attachments in Word are especially welcome.

## 2001 NATIONAL ALJ SALARY SURVEY AVAILABLE

by Stanley J. Cygan

The recently published 2001 Survey of Administrative Law Judge Salaries updates the salary ranges as of January 1, 2001, of administrative law judges of nine types employed by the fifty states and the District of Columbia. The latest survey unfortunately continues to identify substantial discrepancies between the salaries paid ALJs of similar types among the various states and also disparities within states. The survey has been utilized by ALJs in a number of states to help achieve salary adjustments.

The survey is available at the NAALJ web site at [www.naalj.org](http://www.naalj.org). A

limited supply of printed copies of the survey are also available by contacting the NAALJ at its national office.

The survey also lists the salary ranges of centralized offices of administrative hearings or central panel administrative law judges and their directors or chief administrative law judges. These offices are independent from the agencies over whose hearings they preside. Such offices exist in 27 states and the District of Columbia and in several municipalities including the cities of New York and Chicago. The survey also compares the salaries of selected federal administrative law judges and hearing examiners and the salaries of state and federal trial court judges.

The survey is the work of the NAALJ's ALJ Compensation Committee and has been published every two years since 1997. The survey's goal is to improve the administration of justice by improving ALJ salaries. By providing sufficient salaries, the best possible candidates to the administrative judiciary can be attracted and experienced administrative law judges can be retained.

The survey notes that all the positions surveyed, including the judges of the judicial branch, perform comparable functions. All the positions preside over tribunals deciding adjudicative controversies where they make findings of fact and conclusions of law. The survey notes that despite the performance of comparable functions, except for a few more progressive jurisdictions, substantial discrepancies exist among the compensations paid ALJs in most states.

The ALJ Compensation Committee of the NAALJ believes that there is no rationale basis for substantial disparity between the salaries paid to administrative law judges within a state. Generally, ALJs within a state should be uniformly titled and commensurately classified and compensated, whatever the type of case they hear, the Survey says.

The Survey found that some states pay their ALJs salaries that compare with the salaries paid to those states' trial court judges. Such states may pay their ALJs salaries that are 70 to 90 percent of what comparable judicial branch judges are paid. However, the study noted, despite comparable functions, other states pay their administrative law judges less than half of what they pay that state's judicial branch judges.

Because of the NAALJ's first survey published in 1997, the American Bar Association adopted a resolution calling for a general increase of state ALJ salaries and stating that judicial branch judges salaries

should be used as a comparable basis. The NAALJ ALJ Compensation Committee also endorses the concept that salaries of ALJs be established as a percentage of the salaries of comparable judicial branch judges.

## NAALJ BOARD MEMBERS REIMBURSEMENT POLICY

By Anne Breen-Greco

In view of discussion at the annual conference in Austin regarding cost cutting, I was asked by President-Elect Janet Thompson to write an article on Board reimbursement. This article is intended to provide background information on the development of and necessity for this policy. In 1996, at the annual conference in Denver, Board member Bryan McDaniel expressed concern that the one of the only three women on the Board had not been able to attend the previous annual conference due to lack of financial resources. In addition, there were considerable concerns expressed about the general lack of diversity on the Board. The Board, for a number of years, was principally composed of members who were white males and the majority of Board members were Chief ALJs.

This observation was not and is not made to criticize anyone who has served the organization, but it accurately reflects the situation at the time. It was felt that a policy of Board reimbursement would help to make Board participation more accessible to any interested member, including those who lacked the funding resources to pay for their attendance and full, active involvement as a Board member. NAALJ has, as part of its mission and commitment to the public it serves, embraced a goal of reflecting the diversity of that public. During the 1980's and 1990's, courts throughout the country had already established policies on diversity, based on studies which showed the need to address both issues of gender and race in court systems. It is noted that the administrative judiciary handles significantly more cases than do courts in the judicial branch of government, making the mission on diversity even more compelling. NAALJ has recognized and acknowledged this issue and has offered workshops on diversity at its educational conferences since 1996.

In Denver, the Board agreed that a committee should submit a proposal to the Board on reimbursement to Board members. On the committee were Bryan McDaniel, Buddy Kittrell, and myself. The committee's proposal for reimbursement was endorsed by the Board and presented to and approved by the membership in 1998 in Portland at the annual meeting. The approved policy allowed for reimbursement for travel to and from the annual meeting and conference; conference fee waived; and, hotel reimbursement for two nights at the maximum rate of \$75 per night.

It is noted that Board members are required to be at the annual conference for several nights; the Board meeting begins on Saturday and concludes on Wednesday.

Reimbursement was limited to those Board members who had no reimbursement from their agencies or other sources, and was also limited to attendance at the Association's annual meeting and conference (all Board members are also expected to attend the mid-year meeting, which also entails travel and lodging expense).

At the annual conference in Asheville, North Carolina, in 1999, it was proposed and approved by the membership that the reimbursement policy be extended to include attendance at the mid-year Board meeting. However, reimbursement, as noted above, remains limited to only partial reimbursement of hotel for two nights and travel; meals and other travel expenses are not included. There is no question that composition of the Board has more accurately reflected the diversity of the membership of our Association and the diversity of the public we serve in the administrative judicial system since implementation of the Board reimbursement policy. While this policy can be seen as a necessary and vital element to ensure that the composition of the Board continues to appropriately reflect that diversity, the policy also ensures that any member of the Association can choose to fully participate as a member of the Board and commit to the responsibilities of the position, regardless of financial status. It is noted that the policy has been utilized by Board members, regardless of gender or race. Board members who have utilized the reimbursement have done so conservatively. A number of Board members room with others in order not to incur the expense of asking NAALJ for even the limited hotel reimbursement. The records on reimbursement have been and remain available to the membership.

Prior to recommending a dues increase, the Board reviewed all possible cost-cutting measures. It is also noted that the Board has a fiduciary duty to the members and accordingly must utilize NAALJ funds with fiscal responsibility. While consideration of all expense reduction is certainly appropriate, cutting the reimbursement policy would be counter-productive and harmful to the essential mission and the future development of the Association. The solution to financial difficulties is not cutting reimbursement but rather working together to develop other funding sources to continue the growth of the organization which best serves the needs of ALJs throughout the country.



## ROSSKOPF AWARD COMMITTEE SEEKS NOMINATIONS

*By Willie C. Thompson*

In 1999, the NAALJ Board of Governors voted to authorize an annual career achievement award to be presented to an Administrative Law Judge who has earned the esteem and respect of the administrative judiciary. NAALJ presented the first award posthumously to the late Victor Rosskopf of Missouri.

Judge Rosskopf served on the NAALJ Board of Governors and as the NAALJ Treasurer for several years before his untimely death. He was admired and respected not only by the NAALJ Board, but many others who knew him. We honor him by naming an award in his memory to recognize the career achievements of other Administrative Law Judges.

In 2001, the award was presented to Judge Arthur Gladstone who retired as Chief ALJ for the Federal Communications Commission in 1975. Judge Gladstone then moved to the National Judicial College in Reno, Nevada, where he was instrumental in expanding NJC programs to include training for ALJs. The award was presented to him as he retires from teaching at age 90. NJC president Bill Dressel and Dean Ernest Borrunda accepted the award on Judge Gladstone's behalf in November at the annual meeting in Austin. NJC then held a separate ceremony at the college and presented the award to Judge Gladstone in the presence of NJC students and faculty.

The 2002 Rosskopf award will be presented in October at the annual meeting in Lexington, Kentucky. The Rosskopf Award Committee is currently seeking nominations for this year's award.

Nomination letters should summarize the achievements of the nominee and should be submitted to the committee no later than August 31, 2002. Nominations can be mailed, faxed, or e-mailed to Judge Willie Thompson at the following:

**Virginia Employment Commission  
P.O. Box 1358  
Richmond, VA 23218-1358**

Email: [wthompson@vec.state.va.us](mailto:wthompson@vec.state.va.us)  
Fax: (804) 786-9034

If anyone has questions or comments, I can be reached at (804) 786-8390. The committee looks forward to receiving your nominations.

## AUSTIN ANNUAL MEETING IS HUGE SUCCESS

*By Sarah Ramos*

Two hundred ALJs from twenty-five states and the District of Columbia met in Austin, Texas, for the NAALJ 2001 Conference on November 4-7, 2001. In addition to NAALJ and the Texas-affiliate, TAPAA, the Austin meeting was hosted by the Texas State Office of Administrative Hearings and Texas Tech University of Law. Presenters covered a wide variety of topics related to the meeting's theme, "Communication and Technology: Challenges and Opportunities in Administrative Law."

Texas State District Judge John Dietz highlighted not only the dramatic changes in case docketing and processing, but also how technology has simplified complex evidentiary presentations. Several speakers demonstrated technology support programs. ALJ Willie C. Thompson, Jr., of Virginia, composed a document by dictating into a voice-activated computer program. In another session, ALJs conducted a mock hearing with video teleconferencing.

For part of the meeting, participants chose from several break-out seminars, including mediation, complex litigation, security, education, and workers compensation. In the workers' compensation sessions, ALJs discussed political pressures in administrative hearings, the injuries covered and the assumptions under which workers' compensation laws were established, the attorney compensation laws that make it difficult for injured workers to find representation, and settlement techniques.

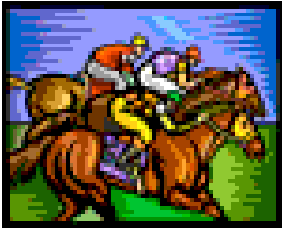
Well-regarded administrative law professors Brian D. Shannon, Charles H. Koch, Jr., Ron Beal, and Greg Odgen addressed various aspects of interpretative rule-making and agency policy statements. Discussing another topic of particular interest, sanctions, speakers disagreed about the impact of ALJ's sanctions.

Acknowledging the terrible tragedy of the World Trade Center and Pentagon attacks, Appeals Court Judge Bea Ann Smith challenged ALJs to reaffirm our commitment to the rule of law and to reconsider the steps that will assure fair and independent decisions. Similarly, an ethics speaker advised, "If you do not find yourself making decisions against your own opinions and values, you are not a real judge. However, if you never do something that requires courage, that causes you to think you may lose your job, you also are not a real judge." ALJs were cautioned against setting policy, the responsibility of agency leaders. ALJ Sammie Chess, Jr. from North Carolina

emphasized ways to not only keep hearings impartial, but to maintain public confidence in the process.

During the affiliates luncheon, various states reported about networking functions, scholarship support, and newsletter publication. Representatives from states without affiliate organizations were offered several ideas for developing ALJ groups in their states. Those who attended the meeting also enjoyed several Austin cultural and entertainment spots, including the Texas Capitol, the Hill Country, and Sixth street's entertainment district.

The annual meeting was a success, not only in the presentation quality, but in its production of revenue, thanks in large part to generous corporate sponsorships. Meeting receipts totaled \$79,574.00, and generated a net NAALJ profit of \$13,958.22. The final NAALJ figure may be slightly higher because some funds were held back to pay any late-filed bills.



## THE BLUEGRASS STATE WELCOMES NAALJ 2002

[Lexington](#), Kentucky, in the heart of the Bluegrass State, is the site of the 2002 National Association of Administrative Adjudicators' Annual Meeting and Conference, set for October 19-23. The conference is co-hosted by NAALJ, the Kentucky Association of Administrative Adjudicators (KAAA), and the University of Kentucky, Department of Continuing Legal Education. Check out the latest details on the program and special events in the brochure at the [KAAA website](#).

### TENTATIVE PROGRAM

The theme of this year's conference is "When Winning Isn't Everything — Resolving Disputes with Justice for All". With this theme in mind, the Program Committee has worked hard to put together a series of entertaining and substantive sessions, including the following:

#### Sunday, October 20 -

- "Winning the Battle but Losing the War — Ensuring the Hearing Both Provides Due Process and Promotes Public Confidence." A series of skits on due process issues with discussion and audience participation.

- Reception (Tentatively scheduled at the [Kentucky Horse Park](#)).

#### Monday, October 21 -

- "When Winning Isn't Everything — The Judge's Role in Determining Whether Hardball is Fair Game."
- "One Size Might Not Fit All." A panel discussion on comparative methods of dispute resolution.
- Federal and State Administrative Law Case Updates.
- Luncheon speaker - A View of Administrative Adjudication from the Federal Bench.
- "Do You Mean What I Thought You Said?" Recognizing cultural differences in courtroom behavior.
- Evening — NAALJ No Talent Show. More details to follow!

#### Tuesday, October 22 -

- Special Issues in Complex Litigation.
- Nuts and Bolts of Conducting an Administrative Hearing.
- Receiving Scientific Evidence in a Hearing.
- Panel Discussion on Managing a High Volume Docket.
- Decision Writing. An in-depth discussion of the appropriate form, content, and style for orders and decisions.
- "Make Your Life a Little Easier." Using technology to enhance the hearing process, manage your docket, and simplify your office.
- Proposed Resolutions for NAALJ. A round-table discussion of future NAALJ policy initiatives.
- Fellowship Presentation
- Banquet. Presentation by the Kentucky Supreme Court Chief Justice.

#### Wednesday, October 23 -

- "Promoting Public Confidence in the Judiciary." A view from the Federal Bench.
- "Opening the Judicial Process to All." A review of Kentucky's efforts.

- "What Will Get You in Trouble?" A review of ethics for administrative law judges.

### SPECIAL EVENTS

Make plans to arrive in Lexington prior to the conference to participate in outings planned for Saturday and Sunday.

### SATURDAY

- **Horsing Around:** Experience the thrill of some of the world's most prestigious Thoroughbred racing at [Keeneland](#), a National Historic Landmark located in the heart of Bluegrass country. Keeneland is one of the few racetracks in America where you can get up close and personal with magnificent horses as they enter the Paddock—said to be one of the most beautiful places in central Kentucky—filled with hearty pin oaks, sycamores and maple trees. Once the races begin, you'll watch all the action and enjoy a delicious lunch buffet from your table in the Lexington Room, situated high atop the grandstand. Best of Luck!

*Note: Seating in the Lexington Room, is limited and accommodations can only be made for the first 70 persons who pay for this event. Coat and tie is required for guests in the Lexington Room.*

- **Historic Tours:** As you begin your scenic ride through Horse Country, you'll stop for a guided tour of [Three Chimneys Farm](#). Situated on approximately 1,500 acres, Three Chimneys is home to the only undefeated Triple Crown winner in history, Seattle Slew, and to Kentucky Derby winner Silver Charm. From the horse farm you'll travel to Woodford County to tour [Labrot & Graham Distillery](#), a National Historic Landmark and home to Woodford Reserve bourbon. Next, it's off to Frankfort for a catered lunch in the Music Room of Berry Hill Mansion, former home of distiller George Franklin Berry. The mansion is situated on a prominent western bluff overlooking the state Capitol. While in Frankfort, you're sure to satisfy your sweet tooth with a tour of the Rebecca Ruth candy factory, where world famous Bourbon Chocolates are made. You'll wrap up the afternoon with a narrated tour of Frankfort's historic sites including [Daniel Boone's grave](#), [the Floral Clock](#), [the Kentucky History Center](#) and both the [new](#) and [historic](#) capitol buildings. Enjoy!

## SUNDAY

- **Shaker Village:** Begin your morning with a hearty country buffet breakfast at Shaker Village, a premier living history museum where costumed interpreters chronicle Shaker life. Enjoy a self-guided tour of the 33 original 19<sup>th</sup> century buildings and 2,800 acres of farmland. You'll marvel at the extensive collection of original Shaker furniture, watch skilled artisans practice their trades, and listen to Shaker music being performed in the 1820 Meeting House at Pleasant Hill.
- **Golf Outing:** All golf enthusiasts will enjoy the pleasure of a morning in the rolling hills of the bluegrass at one of Kentucky premier golf courses designed by foremost golf architect, Pete Dye.

*Prices will be announced for additional special events as they become available. Please contact our Logistics Committee Chair, Lori Eisele, to indicate your interest in attending one of the above Special Events.*  
([Lori.Eisele@mail.state.ky.us](mailto:Lori.Eisele@mail.state.ky.us) or 502.564.6621)

The host hotel is the Radisson Plaza, a premier hotel, located in downtown Lexington. The room rate is \$124 single\ double; \$134 double\ quad. Reservations may be made at 800.333.3333, or [click here](#) to reserve online. To receive discounted Conference hotel reservations, use the special promotional code "NALJ". The local hotel telephone number is 859.321.9000. Fax number is 859.231.3704. Our convention coordinator is Anthony Milkey; his telephone number is 859.281.3710. Complimentary shuttle to the airport (a 15-minute drive) is available. Hotel parking is also complimentary.

### REGISTRATION

For NAALJ members, registration is \$300 if postmarked before June 30, 2002; \$325 if postmarked before September 1, 2002, and \$350 thereafter.

For non-members, registration is \$325 if postmarked before June 30, 2002; \$350 if postmarked before September 1, 2002, and \$375 thereafter. Registration may be made by using the form in this Newsletter. Send the form and a check made out to "KAAA Inc. 2002 NAALJ Conference Acct." to: UK/CLE, Room 260, College of Law, University of Kentucky, Lexington, KY 40506-0048. (UK/CLE telephone no. - 859.257.2921; Fax - 859.323.9790). The program will qualify for approximately 17 hours CLE credit.

If you have any questions, please contact one of the following:

Susie Bargo - 606.878.7576  
[Susie.Bargo@mail.state.ky.us](mailto:Susie.Bargo@mail.state.ky.us) ;

Jim Dickinson - 502.564.7312  
[James.Dickinson@mail.state.ky.us](mailto:James.Dickinson@mail.state.ky.us);

Janet Thompson - 502.564.7312  
[Janet.Thompson@mail.state.ky.us](mailto:Janet.Thompson@mail.state.ky.us) ;

## PAST-PRESIDENT'S REPORT: THE 2000-2001 FISCAL YEAR THE ANNUAL MEMBERSHIP MEETING

By R. Bryan McDaniel

### ELECTIONS

Congratulations to the officers and board members elected by acclamation at the annual membership meeting in Austin last November. With such a powerful group, President Craddock has an excellent start. They are:

#### OFFICERS:

**President:**  
Larry Craddock (TX)

**President-Elect:**  
Janet Thompson (KY)

**Secretary:**  
Susie Bargo (KY)

**Treasurer:**  
Chris Graham (MO)

**Past President:**  
Bryan McDaniel (LA)

#### BOARD OF GOVERNORS MEMBERS:

**1 year term expires 2002:**  
Judge Sammie Chess (NC)

**2 year term expires 2003:**  
Judge A. Michael Nolan (MD)  
Judge William Dorsey (CA)  
Judge Steve Mihalchick (MN)  
Judge Lois F. Oakley (GA)

**Incumbent Members Through 2002:**  
Judge Sheila Bailey Taylor (TX)  
Judge Tyrone Butler (NY)  
Judge Ann Breen-Greco (IL)

### ANNUAL REPORT

Having now completed my term as president, I wish to report the progress made in furthering the goals listed in my initial letter to the membership in November, 2000, when my

term began. In order to pursue these goals successfully, I sought to motivate the membership and the board to take active roles in the organization. I am happy to report that active participation was at a high level last year, as shown by the following description of our efforts to meet the listed goals:

#### 1) **Putting our financial position on more solid footing:**

At the annual board meeting in Albany that began the year, the board received a report of a serious drain on our savings caused by many factors, including poor conference income. It directed the president and treasurer to monitor the situation and recommend solutions. For the next six months, the Executive Committee (Judge Larry Craddock, President-Elect; Judge Janet Thompson, Secretary; Judge Chris Graham, Treasurer; and I) met on a regular basis to determine the causes and solutions to the financial drain. As a result, the executive committee identified a number of factors that should be addressed to not only put the organization on sound financial footing, but also to reorganize and revitalize its plan for accomplishing its mission. A Strategic Plan with supporting materials was drafted and presented to the board at the mid-year meeting in May at Pepperdine University School of Law. It included a recommendation for a dues increase, a change in the fiscal year, and other measures addressing many facets of the organization. After much discussion, the board voted to recommend the Strategic Plan to the membership at the annual meeting in Austin in November and notice to the membership was placed in the newsletter. Over the ensuing months, many members came to embrace the plan, but there were also many with legitimate questions and concerns. So, when everyone arrived in Austin, there was much anticipation as to what would occur.

After considerable debate at the Austin meeting, the membership voted on a compromise to increase dues to \$35 for affiliate members, \$50 for individual members, and \$100 for sustaining members. This was the first dues increase in more than 15 years, and put the organization on more solid financial footing by allowing the dues to cover most, if not all, of the expenses of servicing the members, exclusive of income from conferences. Thus, if we run low on conference income, we should not have to dip into other revenues to stay afloat. Also, the fiscal year was changed to start on July 1st instead of October 1st in order to coincide with the fiscal year of many states and give them more flexibility to pay dues on behalf of association members.

To ensure a financially successful annual conference, Judge Craddock and I worked hand and glove with TAPAA President David Brunke to negotiate a workable plan and our Texas affiliate did a outstanding job in putting it

together. As a result of the hard work by TAAPA, SOAH, Texas Tech, and NAALJ, a highly successful conference followed, which set the record for net proceeds despite the problems caused by September 11th.

Further financial stability was achieved by renegotiating the Secretariat contract to pay for additional work through flat fees rather than through per hour billing. And board expenses were reduced by minimizing hotel meeting room charges and making lunch and dinner meetings “Dutch treat.” Another example of cost savings was the development of a plan to publish the biannual newsletter over the web instead of mailing hard copies.

**2) Standardizing the procedures for setting up annual and educational conferences:**

In order to avoid “reinventing the wheel” each time new conference organizers put on a conference, a committee was formed to collect information on past annual meetings and educational conferences and develop a set of guidelines and supporting materials that contain NAALJ conference policies, procedures, and information designed to aid conference organizers. The committee and subcommittees, including Judges Buddy Kittrell, Janet Thompson, Larry Craddock, Tyrone Butler, Susie Bargo, Julian Mann, Ed Schoenbaum, Ann Breen-Greco, Mark Zylberberg, David Brunke, and myself, met several times to formulate a proposal. The guidelines, and supporting materials, were presented to the board in Austin and will be placed in the NAALJ Operations Manual. Standardization of conferences using these guidelines should make it easier to stage conferences that are rewarding both educationally and financially, while minimizing the confusion and other difficulties encountered by past conference organizers.

**3) Updating our method of bringing in new individual members and affiliates:**

There was some confusion over the correct pro-rata amount to charge new members and affiliates that join at different times during the fiscal year. This problem was resolved by Executive Committee last year by reducing to writing the procedure being followed by the Secretariat and placing it in the NAALJ Operations Manual.

**4) Facilitating the establishment of an affiliate in California:**

Years ago, California, which has a huge number of ALJs, had a strong presence in NAALJ; however, it has become much less active in recent years, with a small number of active members. About two years ago, Judge Bruce Cooper, one of our most active members and chair of the Affiliates

Committee, suggested that NAALJ promote the idea of establishing California as an affiliate. The board decided to co-host with NCALJ a mid-year educational conference on “Evidence for ALJs” at Pepperdine School of Law in Malibu, California last May. It was organized through the hard work of Professor Greg Ogden of Pepperdine (our Journal Editor) and Judges Ed Schoenbaum, Bruce Cooper, Ann Breen-Greco, Ed Felter, and Ken Nickolai. A flurry of recruiting brought together a strong faculty and 80 attendees, mostly from California. During the conference, which was roundly praised as exceptional, NAALJ hosted a reception for the California ALJs to instigate the development of an affiliate chapter. Due to the interest built at the conference and reception, there is now a committee of active NAALJ members, headed by board member, Judge Bill Dorsey, working to establish a California affiliate to NAALJ.

**5) Continuing our efforts to be more inclusive in utilizing the talents of our membership:**

Last year an organized committee system was constructed by recruiting chairs who were talented and interested in furthering the goals of NAALJ through its committee structure. Past committee membership was culled to include only those who expressed an interest in serving the organization in that capacity. The success of those committees varied but generally reflects an active and motivated membership resulting in the accomplishment of the goals set forth in this report. The talents of our members were most obvious in our excellent Journal, edited by Professor Ogden and guided by Judge Schoenbaum and the Board of Advisors. Also prominent were the three conferences hosted by NAALJ last year: “Mediation For ALJs” in Denver in April; “Evidence for ALJs” in May at Pepperdine School of Law in Malibu, California; and, at the annual conference in Austin, Texas in November, “Communication and Technology: Challenges in Administrative Law”. In Austin Judge Lara Manzione was awarded the 2001 NAALJ Fellowship by Judge Ed Felter and she presented her paper on “Delegation of the Judicial Function from the Judicial Branch Courts to the ALJ,” to be published in our next NAALJ Journal.

**6) Continuing our work on improving the compensation and working environment of ALJ’s:**

The main thrust of the efforts toward this goal was the work done by veteran member Stan Cygan and his Compensation of ALJs Committee. After much hard work, this committee published another biannual survey comparing ALJ compensation at federal, state, and local levels. Focus on

other aspects of the ALJ working environment was seen through the efforts of many committees, such as Bylaws, Procedures, and Resolutions; Physical Security; Judicial Discipline and Ethics; and conference programs, such as “Dealing with the Legislative Process” and “Central Hearing Panel Issues.”

**7) Establishing a procedure for addressing requests for action by NAALJ on issues raised by individuals and groups:**

In Austin the board adopted a proposal, developed by The Bylaws, Procedures, and Resolutions Committee, headed by Julian Mann, which creates a structured procedure by which resolutions can be brought before the board and the membership. In addition, the board recommended to the membership several Bylaws amendments and resolutions to improve NAALJ and administrative adjudication, developed by the same committee. They were all adopted at the Austin membership meeting and are explained in this newsletter in an article by Judge Mann.

**8) Continuing to update the NAALJ Operations Manual:**

Two years ago President Kittrell initiated a NAALJ Operations Manual to provide information needed by those elected each year to run the organization in order to maintain continuity. Last year the manual was updated and expanded to cover additional areas, such as the Conference Guidelines and the pro-rata dues procedure for new members described above in parts (2) and (3).

**9) Building upon our relationships with the ABA’s National Conference of Administrative Law Judges, the Council of Canadian Administrative Tribunals, and other related professional organizations:**

Last year NAALJ furthered its partnership with related professional organizations in a number of ways. First, it again co-hosted, through the work of Judge Ed Schoenbaum and others, two educational conferences with NCALJ/ABA: “Mediation Training for ALJs” in April in Denver (with excellent training again by Judges Marshall Snider, Nancy Lynch, and Phyliss Rhea and Bert Harberson of CSG) and the highly touted “Evidence for ALJs” in May in Malibu. It also pursued establishment of a joint membership program with NCALJ, which is in the formative stages. Second, it pursued possible partnerships with the National Judicial College (NJC) and the Council for State Governments (CSG) in educational areas, such as conferences and Mediation Training. Third, NAALJ and



NCALJ sent representatives to the Second International Conference on Administrative Justice hosted by the Council of Canadian Administrative Tribunals. As a result, NAALJ and NCALJ were invited, and have agreed, to co-host the third international conference in June, 2004. Ed Felter, Tyrone Butler, and I have been appointed by NAALJ and NCALJ to organize the conference with CCAT.

10) **Encouraging and incorporating the use of computer technology in our efforts:**

Advancing the use of computer technology has been an obvious need of our organization, in order to be more informative and efficient. Judge Mike Nolan and his Technology Committee have brought NAALJ out of the dark ages by upgrading our web page and its links. Out of the effort last year to identify ways to cut costs came a suggestion to publish our newsletter and other announcements on our web page instead of formatting, printing, and mailing them. The Technology Committee needed no urging. It immediately set out to obtain the needed email addresses to put this idea into practice. This newsletter, the first E-Newsletter by NAALJ, is a product of the hard work done to further this goal.



**President McDaniel addresses the members during the Austin meeting.**

So, now you see what the hard work of the NAALJ membership has accomplished over the past year. I was blessed with elected officers (President-Elect Larry Craddock, Secretary Janet Thompson, and Treasurer Chris Graham) who were sharp, experienced, hardworking, and very pleasant to work with. We were a team. The same was true for the board members and committee chairs/members, who volunteered their time and talents. Also, a great help was Laura Bierman, our Secretariat, whose many hours of hard work, skill, and patience made the job doable. I offer my sincere gratitude to all those who contributed last year, some of whom are named above and many that are not. I am very proud of NAALJ and believe it will continue as a driving force in the advancing administrative adjudication in this

country well into the next century. Those of you who are active, please continue. Those of you who are watching and waiting, please take part. It is rewarding and a great way to meet new friends and share ideas, particularly in your career field.

Your friend and colleague,  
**Bryan McDaniel, President 2000-2001**

**RECEPTION IN HONOR OF THE ADMINISTRATIVE JUDICIARY**

On November 28, 2001, the Federal Bar Association sponsored a Reception in honor of the Administrative Judiciary at the FBA headquarters, 2215 M. St. NW, Washington D.C. Nearly 60 persons assembled for the occasion, including 40 administrative law judges and other members of the administrative judiciary at more than 20 different agencies. Welcoming remarks were given by John C. Holmes, Chair of the Judiciary Division; William N. LaForge, Deputy Secretary of the Federal Bar Association; and Ronnie A. Yoder, representing the FBA Washington D.C. chapter. Judge Yoder introduced the evening's speaker, Administrative Law Judge Marvin H. Morse, former FBA President (1995 – 1996). Judge Morse recounted his experience in numerous ALJ positions, and as director of the Office of Personnel Management (“OPM”) Office of Administrative Law Judges (1980 – 1982), highlighting his efforts to (1) obliterate the distinctions of grade and status among ALJ's depending whether their adjudication s involved economic regulation, enforcement, or benefits; (2) obtain legislation to authorize the employment of retired ALJs as rehired annuitants; (3) establish a mini-corps of ALJ's at OPM; and (4) amend Title 5 of the United States Code so that excepted service personnel are entitled generally to the same protections on adverse actions as personnel in the competitive service. He urged all members of the administrative judiciary to be as activist as possible in the FBA leadership, either in a local chapter, the Judiciary Division, or a substantive law section as the best way to achieve and preserve improvements in administrative adjudication.

Judge Yoder observed that this is an exciting time to be a member of the administrative judiciary, noting that two federal courts had recently declared an “emancipation proclamation” for all administrative adjudicators, holding that all of them – even an at-will state hearing officer who can be dismissed for any reason or no reason – have a constitutional free-speech 1<sup>st</sup> amendment right to decisional independence and cannot be disciplined or dismissed for independent decisional content. He stated that the FBA continues to sponsor the assemblage

of all the administrative judiciary, because “we have a dream – a dream of an administrative judiciary with its own recognized decisional independence and respect consistent with its responsibility and stature, and with a vision of its own future in the administration of justice in executive/legislative branch adjudications.” He commended the FBA as small enough for YOU to get things done and big enough for IT to get things done for you.” Judge Yoder presented Judge Morse with a certificate recognizing his “outstanding contributions to the Administrative Judiciary and the Federal Legal Profession.”

The reception was sponsored by the FBA Judiciary Division and the FBA D.C. Chapter, with additional contributions from the Federal Career Service Division and the Labor and Employment Law Section



**The following is a listing of the committees of NAALJ for the year 2001-2002, as of the time this newsletter is published. Note: The President of NAALJ serves as *ex officio* member of all committees, except the Auditing Committee.**

**2002 ANNUAL CONFERENCE COMMITTEE (KY)**

- NAALJ Chair:  
Susie Bargo
- KAAA Co-chairs:  
Janet Thompson,  
Jim Dickinson
- Program:  
Vanessa Mullins Dickson, Michael Head
- Logistics:  
Lori Payne Eisele
- Promotions:  
Alan Wagers

**2002 MIDYEAR CONFERENCE COMMITTEE (MN)**

Ken Nicholai and the Minnesota State Office of Administrative Hearings

**2004 MIDYEAR CONFERENCE WITH  
CANADA EXPLORATORY  
COMMITTEE**

**Co-chairs:**

Tyrone Butler  
Ed Felter  
Bryan McDaniel -

**FUTURE CONFERENCE SITE  
SELECTION COMMITTEE**

**Chair:**

Julian Mann

**Members:**

John Hardwicke  
Janet Thompson  
Buddy Kittrell

**CONFERENCE LOGISTICS,  
PLANNING, AND ASSISTANCE  
COMMITTEE**

**Chair:**

David Brunke

**Members:**

Jim Horan,  
Meg Scott Phipps,  
Laura Bierman

**COMPLEX LITIGATION COMMITTEE**

**Chair:**

Dennis Moss

**Members:**

Jim Horan

**ALTERNATIVE DISPUTE: TRAINING  
COMMITTEE**

**Co-Chairs:**

Nancy Lynch,  
Marshall Snider

**Administrator:**

Edwin Felter

**ALTERNATIVE DISPUTE  
COMMITTEE (NON-TRAINING)**

**Co-Chairs:**

Beverly Nash  
Ann Breen-Greco

**Members:**

Judith Finn Plymer  
Noreen Lynch  
David S. Knishkowy  
Lynda Lee Moser

**AUDIT COMMITTEE**

**Chair**

Stan Cygan

**Members:**

Steve Mihalchick  
Sharon Strickland

**BYLAWS, PROCEDURES AND  
RESOLUTIONS COMMITTEE**

**Chair:**

Lois Oakley

**Vice Chair:**

Julian Mann

**Members:**

John Hardwicke  
Bruce Johnson  
Jim Horan  
Stan Cygan  
Ronnie Yoder  
Chris McNeill  
Sammie Chess  
Tyrone Butler

**CENTRAL PANEL ISSUES  
COMMITTEE**

**Chair:**

Bruce Johnson

**Vice Chairs**

Jim Reilly  
Sammie Chess

**Members:**

Shelia Bailey-Taylor  
Lois Oakley  
Julian Mann  
John Hardwicke,  
Buddy Kittrell,  
Art Wang,  
Tom Ewing

**CIVIL RIGHTS, WOMEN, AND  
MINORITIES**

**Co-Chairs:**

Charlotte Rutherford  
Tela Gatewood

**EDUCATION COMMITTEE**

**Chair:**

Ed Schoenbaum

**Vice-Chair:**

Chris McNeill

**Members:**

Bob Gales  
Michael Head  
Tyrone Butler

**DISTANCE LEARNING SUBCOMMITTEE**

**Chair:**

Steve Mihalchick

**FELLOWSHIP COMMITTEE**

**Chair:**

Ed Felter

**Members:**

Laura Manzione,  
Ed Schoenbaum  
Greg Ogden  
Terrence Harders  
Chris McNeil  
Ann Young  
Gina Hale  
John Hardwicke

**JOURNAL BOARD OF ADVISORS**

**Chair:**

Ed Schoenbaum

**Vice-Chair:**

Bill Dorsey

**Editor:**

Greg Ogden

**Members:**

Michael Asimow  
Susie Bargo  
Ron Beal  
Abigail Bernhardt  
Sammie Chess  
Stan Cygan  
Bob Gales  
Gina Hale  
Phil Howe  
Ronnie Yoder,  
Ann Young

**JUDICIAL INDEPENDENCE  
COMMITTEE**

**Chair:**

Tyrone Butler,

**Members:**

Shelia Bailey Taylor  
Ann Young

**MEMBERSHIP COMMITTEE**

**Chair:**

Bob Layton

**Vice-Chair**

David Marcus

**Members:**

Willie Thompson  
Bill Dorsey  
Bryan McDaniel

**NAALJ NEWSLETTER**

**Co-editors;**

Noreen Lynch  
Lynda Moser

**Electronic transmission**

Mike Nolan

**NOMINATING COMMITTEE**

**Chair:**

Bryan McDaniel

Vice Chair:  
Ann Breen-Greco,

Members:  
Georgia Brady  
Janet Thompson  
Marc Zylberberg

#### NON LAWYER ALJ COMMITTEE

Chair:  
David Marcus

Members:  
M. E. Davis  
Linda Hassenplug,  
Sue LaBorde  
Susie Bargo

#### PHYSICAL SECURITY FOR ALJS COMMITTEE

Co-Chairs:  
Steve Hjelt  
Richard C. Goodwin

Members:  
Peter Keltch  
Tyrone Butler  
Chris McNeil

#### ROSSKOPF LIFETIME ACHIEVEMENT AWARD SELECTION COMMITTEE

Chair:  
Willie Thompson

Members:  
Jim Reilly  
Bill Dorsey  
Charlotte Rutherford

#### JUDICIAL COMPENSATION & SALARY SURVEY

Chair:  
Stan Cygan

Members:  
Shelia Bailey-Taylor  
Richard Boulanger

#### STRATEGIC PLANNING

Co-Chairs:  
Tyrone Butler  
Chris Graham

Members:  
Bryan McDaniel  
Steve Micalchick.

#### LIAISON TO THE ALJ SUMMIT.

Ronnie Yoder

#### TECHNOLOGY AND WEBSITE DESIGN

Chair:  
Mike Nolan

Members:  
Willie Thompson  
Steve Mihalchik  
Bob Layton

#### JUDICIAL INDEPENDENCE RESOLUTION PASSED BY ABA

*By Ann Marshall Young*

Several years in the making, American Bar Association Resolution 101B was adopted by the ABA House of Delegates on August 6, 2001, thus placing the clout and authority of the ABA behind judicial independence in the administrative judiciary. Although this resolution formally came out of the ABA Judicial Division National Conference of Administrative Law Judges, its roots are also in NAALJ. Making judicial independence the focus of my year as NAALJ president (1998-1999), I sought and received input from many members of the administrative judiciary all across the country, and the perspective this provided underlies the resolution and report, which are reprinted with this newsletter.

The resolution was formally a project of the National Conference of Administrative Law Judges (NCALJ) Judicial Independence Committee, which has been co-chaired by Judge Tyrone Butler and myself. Recognizing that the forum in which one's rights and interests are adjudicated matters little to the litigant member of the public, who above all wants fairness in the adjudication of his or her own case, the resolution addresses the *public* interest in independent, impartial and responsible decision-making in the adjudication process, whatever the forum (court or administrative agency) and whatever the title of the adjudicator (judge, ALJ, hearing officer, etc.). The wording of the Resolution and Report arises also out of a recognition of the unique difficulties of the jobs we perform as administrative adjudicators -- serving in a judicial role in contexts in which this role is not always fully appreciated or supported; managing proceedings and resolving disputes in sometimes controversial circumstances; and trying to find the results that the law and relevant regulations require, in often bare surroundings.

To summarize the provisions of the resolution, it urges federal, state, local and territorial governments to do two things: First, to hold members of the administrative judiciary accountable under appropriate ethical standards adapted from the *ABA*

*Model Code of Judicial Conduct* (1990), "in light of the unique characteristics of particular positions in the administrative judiciary"; and second, to provide that any individualized removal or discipline of a member of the administrative judiciary occur only after an opportunity for a hearing under the federal or a state administrative procedure act before an independent tribunal, with full right of appeal. The quoted language in the first part comes from a footnote to the 1990 Model Code, which addresses the applicability of the code to the administrative judiciary.

The resolution also defines "administrative judiciary" as including "all individuals whose exclusive role in the administrative process is to preside and make decisions in a judicial capacity in evidentiary proceedings," but specifies that "agency heads, members of agency appellate boards, or other officials who perform the adjudicative functions of an agency head" are not included in the definition. The definition does not limit coverage of the resolution to those with the title "administrative law judge," but encompasses all those who perform the duties described in the definition, regardless of their titles. (Yale Law Professor Judith Resnik has noted that, in addition to the almost 1400 federal administrative law judges in 1997, there are "[s]ome 2000 [other] judges, with titles such as presiding officers, administrative judges, hearing officers, or examiners, [who] work with federal agencies but are not classified as ALJs under the Administrative Procedure Act." Resnik, *Trial as Error, Jurisdiction as Injury: Transforming the Meaning of Article III*, 113 HARV. L. REV. 924, 953-4 nn.101-2 (2000). The number of members of the administrative judiciary in the various state jurisdictions is undoubtedly much larger.)

The resolution had some opposition at first, but after various negotiations and growing support both within the ABA and also from the State Bar Associations of Tennessee, Colorado, and New York, it ultimately passed 279 to 2. Formally sponsored by the ABA Judicial Division, a branch of the ABA serving judges in all jurisdictions and at all levels, the resolution was co-sponsored by the ABA Standing Committee on Judicial Independence; the Section of Administrative Law and Regulatory Practice; the Dispute Resolution Section; the Government and Public Sector Lawyers Division; the Real Property, Probate and Trust Law Section; and the Senior Lawyers Division.

Colorado Judge Ed Felter spoke for the resolution at the formal vote on the floor of the House of Delegates, and will, along with others, continue to work to achieve implementation of its provisions in jurisdictions all across the country. With

passage of the resolution, members of the public, the bar, and the administrative judiciary nationwide will be able to rely on its provisions with the authority of the ABA behind them, when they approach the appropriate governmental entities in their jurisdictions, seeking to establish meaningful assurances of independent, impartial and responsible decision-making in administrative adjudication proceedings in their areas.

According to Judge Felner, "This resolution should greatly serve the public interest in fair hearings in the administrative adjudication arena, with decisions based solely on the facts and relevant regulatory and other law, without fear or favor. Since it is not limited to proceedings strictly governed by administrative procedure acts, it has the potential for addressing areas that have not previously been given the attention they deserve. The public deserves fair and impartial hearings no matter who conducts them, and this resolution better ensures that this will be a reality."

## RESOLUTION 101B

**RESOLVED:** that the American Bar Association urges the federal, state, local, and territorial governments to enact and adopt measures to protect the public interest in independent, impartial, and responsible decision-making in the administrative adjudication process, by providing (1) that members of the administrative judiciary be held accountable under appropriate ethical standards adapted from the *ABA Model Code of Judicial Conduct* (1990) in light of the unique characteristics of particular positions in the administrative judiciary; and (2) that any individualized removal or discipline of a member of the administrative judiciary occur only after an opportunity for a hearing under the federal or a state administrative procedure act before an independent tribunal, with full right of appeal. For purposes of this recommendation, the administrative judiciary includes all individuals whose exclusive role in the administrative process is to preside and make decisions in a judicial capacity in evidentiary proceedings, but does not include agency heads, members of agency appellate boards, or other officials who perform the adjudicative functions of an agency head.

*Adopted by the ABA House  
of Delegates on August 6, 2001*

## REPORT

The public and all parties to administrative adjudication proceedings have an interest in the fair and effective conduct of these proceedings by independent, impartial, and responsible decision-makers. Many members of the public form their views of the legal system as a result of their experience with various governmental agencies, in a great variety of adjudicative settings. It is quite possible that citizens who form their views this way outnumber those whose opinions arise out of their experience in traditional courtroom settings, given the combined size of the administrative judiciary at federal, state, territorial and local levels. See Judith Resnik, *Trial as Error, Jurisdiction as Injury: Transforming the Meaning of Article III*, 113 HARV. L. REV. 924, 951-54, n.101 [sic; should be nn.101-2] (2000); see also Cynthia R. Farina, *On Misusing "Revolution and Reform": Procedural Due Process and the New Welfare Act*, 30 ADMIN. L. REV. 591, 629 (1998). Therefore, in order to further public trust in the legal system, it is necessary that the administrative judiciary be held accountable for independent, impartial, and responsible decision-making in administrative adjudication proceedings.

This resolution is based on the recognition that these goals are best assured through (1) requiring adherence by the administrative judiciary to ethical standards designed to ensure independent, impartial and responsible decision-making; and (2) providing that such adherence will not result in negative consequences, by protecting the job security of members of the administrative judiciary through fair procedures prior to any disciplinary action including dismissal.

The resolution addresses independent, impartial and responsible decision-making in federal, state, territorial and local administrative evidentiary adjudication proceedings. As Professor Farina has observed, "the reality of the regulatory state is that most citizens must deal regularly with government, at some level, in most of the important aspects of their lives. It is not just that their ability to use their realty and personalty and to pursue their chosen occupation may be extensively regulated, although these things are significant enough. It is also that their children are educated, their homes financed, their old age provided for, and their survival in times of disability, unemployment, natural disaster, or other crisis insured through government programs." *Id.* Administrative adjudication also affects the public both individually and generally in a multitude of other subject areas, ranging from discrimination law to government contract law; environmental protection to health care and industrial safety,

financial institutions to penal institutions; professional licensing to licensing of nuclear power plants, securities to security clearances; and transportation to public utilities to wildlife resources.

Given the broad impact of administrative adjudication in today's society, it is critical that the issue of independent, impartial, and responsible decision-making in administrative adjudication not be overlooked in the midst of efforts to reform judicial branch court systems and develop new policy initiatives in substantive areas. The particular vulnerabilities of the administrative judiciary also point up the need for the resolution. Professor Resnik has noted the need to "shore up the independence of . . . judges who adjudicate outside [the] contours [of Article III]." Resnik, *Trial as Error*, 113 HARV. L. REV. at 1017, 1019-1020; see also Resnik, *Judicial Independence and Article III: Too Little and Too Much*, 72 SO. CAL. L. REV. 657, 669-670 (1999); Felner, *Special Problems of State Administrative Law Judges*, 53 ADMIN. L. REV. 403 (2001).

Recent cases involving the administrative judiciary also reveal that incursions on the decisional independence of the administrative judiciary continue to occur. See *Perry v. McGinnis*, 209 F. 3d 597 (6th Cir. 2000); *Harrison v. Coffman*, 35 F. Supp. 2d 722 (E.D. Ark. 1999), 111 F. Supp. 2d 1130 (E.D. Ark. 2000) (summary judgment for defendants denied). Actions such as those involved in the *Perry* and *Hoffman* cases - dismissals of members of the administrative judiciary arguably for reasons related to outcomes of case decisions - create a chilling effect on independent, impartial and responsible decision-making by members of the administrative judiciary. Adoption of this resolution will address these serious problems in a manner consistent with the American Bar Association policy of supporting the judicial independence of all members of the judiciary.

It is recognized that, while three states (Colorado, Georgia and Minnesota) have adopted the same codes of conduct governing judicial branch judges to apply as well to members of the administrative judiciary, there also exist various specialized codes of conduct for members of the administrative judiciary in various jurisdictions, which contain provisions unique to the judiciaries subject to them. (Colorado, Georgia and Minnesota are among approximately half the states, and a few cities, that have "central panels" of the administrative judiciary who hear cases for a number of agencies, see *ABA Model Act Creating a State Central Hearing Agency* (1997), while other jurisdictions and all federal agencies house members of the administrative judiciary within each agency separately.) In addition, practitioners and

experts in administrative law do not all agree on whether and to what degree there should be exceptions to provisions of the ABA Model Code in various contexts.

All, however, agree that members of the administrative judiciary should be accountable for conducting adjudicatory proceedings and making decisions in a fair and responsible manner. The *ABA Model Code of Judicial Conduct (1990)* has served for over a decade as a benchmark for judicial conduct that is appropriately independent, impartial and responsible. For example, Canon 1 of the Code provides that judges “shall uphold the integrity and independence of the judiciary”; Canon 2 requires judges to “avoid impropriety and the appearance of impropriety”; Canon 3 charges judges with “perform[ing] the duties of judicial office impartially and diligently,” including among other requirements being “faithful to the law and maintain[ing] professional competence in it,” and being “patient, dignified and courteous,” see §§ B(2), (4); and Canon 4 requires judges to conduct their extra-judicial activities so as “to minimize the risk of conflict with judicial obligations.” The intent of the resolution is to promote and protect responsible and ethical conduct on the part of members of the administrative judiciary, characterized by independent, impartial, diligent, competent, patient, dignified, courteous and unbiased judicial performance, as well as by integrity and the avoidance of impropriety or appearance of impropriety.

As observed by Daniel Webster, and more recently the ABA Committee on Government Standards, “care should be taken in every part of the system, not only to do right, but to satisfy the community that right is done.” ABA Committee on Government Standards (Cynthia R. Farina, Reporter), *Keeping Faith: Government Ethics & Government Ethics Regulation*, 45 ADMIN. L. REV. 287, 292 (1993). Moreover, “[w]hile abuse of public power is clearly intolerable, the responsible use of public power is also compromised by mediocrity, complacency and neglect. The ethical standard is not the utopian ideal of being perfect, but rather the attainable goal of serving the public as wisely and well as is humanly possible.” *Id.* This resolution is also in accord with the 1993 Committee’s perspective to the effect that ethics regulation that is concerned only with thwarting wrongdoers will fail, whereas, “to achieve the responsible and careful use of power upon which our common welfare depends,” ethical standards “must be at least as concerned with inducing government employees to be their best.” *Id.* at 294.

The drafters of the 1990 Model Code recommended that “each adopting jurisdiction should consider the unique characteristics of particular . . . positions [in the administrative judiciary] in adopting and adapting the Code for [the administrative

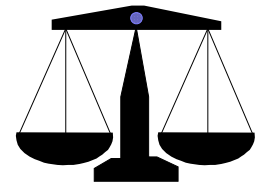
judiciary].” *ABA Model Code of Judicial Conduct (1990)*, n.3 (n.11 in 2000 Edition). Thus, there may be some provisions of the Model Code that would not be applicable in some situations and jurisdictions. This resolution, however, is intended above all to address the overarching theme that litigants in administrative adjudication proceedings, as well as the public, have an interest in independent, impartial and responsible decision-making by accountable members of the administrative judiciary, governed by meaningful and appropriate ethical standards, and ensured on a practical level by reasonable job protection measures.

The resolution is not intended to address non-disciplinary actions such as reductions in force or the abolition of an agency, nor would it prohibit an action to remove and place on administrative leave a member of the administrative judiciary against whom serious allegations have been made, pending a hearing. Nor should the resolution be interpreted to advocate in any way that members of the administrative judiciary should not follow and apply agency policy that has been appropriately adopted and communicated to the public. These positions are excepted from the coverage of the resolution is not intended to imply that persons in these categories should not be held accountable to appropriate and meaningful ethical standards, or that individuals in some of these positions should not be afforded the sort of job protections included in the resolution. The scope of this resolution, however, does not encompass positions involved in such policy-making roles.

The resolution contains two specific recommendations to protect the public interest in independent, impartial and responsible decision-making in the administrative adjudication process. First, it recommends that members of the administrative judiciary be held accountable under appropriate ethical standards adapted from the 1990 ABA Model Code of Judicial Conduct in light of the unique characteristics of particular positions in the administrative judiciary. Second, it recommends that this accountability be ensured by providing a measure of meaningful job protection for members of the administrative judiciary who comply with such ethical requirements, which would not prevent appropriate action against incompetent or unethical members of the administrative judiciary, but would better ensure the independent, impartial, and responsible decision-making that is at the heart of what the resolution addresses. Finally, the resolution defines “administrative judiciary” as described in the previous paragraph.

Through the measures delineated in the resolution, the fundamental issues of fairness and public trust in the legal system are

addressed, in a context that is often overlooked, but which is of critical importance to many members of the public. Psychologists have suggested that public respect for government and the law depends as much or more on how fair the process is as on substantive outcomes. See Farina, *The Consent of the Governed: Against Simple Rules for a Complex World*, 72 CHI. KENT L. REV. 987, 1028-29 (1997), and sources cited therein. Thus, just as public trust can be undermined by any perception of unfairness in legal proceedings, fairness - demonstrated by independent, impartial, and responsible decision-making by members of the administrative judiciary - can enhance and strengthen public trust in the legal system. Adoption of this resolution will significantly further this end.



### **The NAALJ e-News**

This is the first electronic issue of the *NAALJ News*. Its publication marks the culmination of many months of work by a lot of members. The staff of the *News* would like to take this opportunity to individually thank one of those members, without whose efforts this project would not have been possible.

When the electronic newsletter was first proposed, the major “sticking point” was the question of how to get the newsletter delivered to the members. There was a member database available, but the e-mail information was sketchy at best.

Bob Layton, a NAALJ member from the State of Kentucky, volunteered to collect information, and prepare a workable and current list of the membership, including up-to-date e-mail addresses. This list includes more than 600 of our 800 members, and is growing daily. His efforts did not stop with the preparation of the list. When we sent out a test mailing a few weeks ago, there were only 36 defective, or otherwise undeliverable, addresses. Bob has managed to seek out many of the individuals related to these dead addresses, and is currently correcting his database.

Without Bob’s efforts, this project simply would not, and could not have occurred. The project is not finished. We hope to ultimately have a list of all of our membership to enable us to keep the membership current as changes occur throughout the year. Bob has agreed to continue developing the list and fine-tuning same as we proceed. The newsletter staff, and the NAALJ membership in general, owes Bob an incredible debt, and we wish to take this opportunity to publicly recognize his contributions. Thanks, Bob, for a job well done.

# AFFILIATE NEWS

## KENTUCKY:

The Kentucky Association of Administrative Adjudicators ("KAAA") is busy planning the 2002 NAALJ Annual Meeting and Conference, to be held in Lexington, Kentucky, from October 19-23, 2002. We hope you're making plans to join us for this year's conference! Please see our conference article in this newsletter and visit our website at <http://www.kyaaa.org> to find out the latest special events and program details.



Several KAAA members attended the 2001 conference in Austin, Texas. In an effort to promote the 2002 conference, they gave away passes for free weekend getaways to be used at any of our beautiful Kentucky State Resort Parks. Look for KAAA members to be offering even more exciting giveaways at the mid-year meeting in Minnesota!



**KAAA Folk at the Austin Conference**

In addition to conference planning, the 2001-2002 KAAA officers (Lori Payne Eisele, President; Vanessa Mullins Dickson, Vice President; Robert G. Layton, Treasurer; Lori A. Davis, Secretary; Donna "Susie" Bargo, President-Elect; James L. Dickinson, Past President; Michael Head, Member at Large; and Mary Burden, Member at Large) have organized three quarterly affiliate meetings.

- On August 21, 2001, KAAA members gathered in the Music Room at Berry Hill Mansion for our annual "complimentary lunch" meeting. While enjoying a catered meal, members mixed, mingled, and toured an historic property while learning more about opportunities to participate in each KAAA standing and special committee.
- On November 30, 2001, members enjoyed a lunch meeting at Tumbleweed

Grill where KAAA Vice President, Ethics Committee Chair and 2002

- Program Co-Chair, Vanessa Mullins Dickson, led a discussion about the Proposed Code of Judicial Conduct for Hearing Officers. The presentation was approved for CLE credit. During the business meeting, we voted to amend our by-laws to add two Members at Large to the KAAA Board of Governors.
- On February 22, 2002, members returned to Tumbleweed Grill for a lunch meeting where KAAA Treasurer Bob Layton gave a presentation regarding the unauthorized practice of law in administrative hearings. CLE credit was given.

KAAA will host its final quarterly meeting and annual business session on May 10, 2002. At that time, officers will be installed for the upcoming year. Speaking of officers, KAAA is very proud to recognize its own Janet Thompson, NAALJ President-Elect, and Susie Bargo, NAALJ Secretary.

We look forward to seeing each of you in Kentucky this fall! Visit the KAAA website at: <http://www.kyaaa.org>

## TEXAS:



The Texas affiliate is known as the Texas Association of Professional Administrative Adjudicators ("TAPAA") Our officers serve for a calendar year. This year's officers are:

Sarah Ramos, President  
Brett Bray, President Elect  
Lea Burnett, Vice-President  
Casey Church, Secretary  
Georgie Cunningham, Treasurer

TAPAA's primary focus has been ALJ education. We have three or four continuing education sessions each year. The first session for 2002 was on February 22, 2002. The topic for the training is,

### **"The Effect of 9-11-01 on Administrative Hearings: Security, Stress, & Bankruptcy."**

Speakers addressed how ALJs can enhance security in their hearing rooms and how to calm participants' frazzled nerves. Also, a bankruptcy attorney discussed how ALJs should handle administrative cases after a party files a bankruptcy plea; what

constitutes "notice" of a bankruptcy; and how the higher courts address this issue in their practice.

## GEORGIA:

After a tentative year, the Georgia affiliate is revitalizing itself in several ways. First, the affiliate itself provided continuing education for its members this year. While the OSAH judges who are affiliate members met their continuing education requirements in May with satellite training from the National Judicial College, the affiliate had other members who were still relying on it to provide a seminar so they could meet their requirements. The seminar was small but successful. Curriculum was provided, in part, by OSAH judges. Overall, the affiliate's decision to sponsor the seminar met a viable need of its members.

Second, at its annual general membership meeting in February, the affiliate passed two resolutions that will affect a member's affiliate status but not NAALJ status. One resolution allows associate members to vote and to be eligible to serve on the executive committee. The other allows former ALJs and AHOs to be eligible for active membership. The affiliate bylaws will now be amended accordingly, as it had already been ascertained that such amendment would not run afoul of the NAALJ bylaws. The affiliate hopes to increase membership and diversify leadership by having passed these resolutions.

Third, at the same meeting, a new slate of officers and executive committee members was voted in for the next one-year term. The new officers are: President - Phillip Jackson (OSAH ALJ); Vice President - Catherine Crawford (OSAH ALJ); Treasurer - Jessy Lall (OSAH ALJ); Secretary - Patrick Woodard (OSAH ALJ). The new executive committee members are: Lynda Lee Moser (OSAH ALJ); Joe Baird (OSAH ALJ); Laura Morris (OSAH ALJ); Carol Walker-Russell (OSAH ALJ); and Stephen DeBaun (OSAH SAALJ). Some of these individuals are new OSAH judges, while others have been with the central panel for awhile. The affiliate is excited about this winning combination of old and new, and looks forward to the implementation of the fresh ideas espoused by this new leadership. Congratulations, y'all!

Also, congratulations to OSAH Chief Judge Lois Oakley for her recent election to the NAALJ Board at the 2001 annual meeting in Austin. The Georgia affiliate is excited to have the close support of a NAALJ Board member who is in their own backyard. We hope you will get to meet the new leadership as well as all the other Georgia affiliate members at the NAALJ 2002 annual meeting in Kentucky!

## ILLINOIS:

The Judiciary Committee of the Chicago Bar Association (CBA) has invited Administrative Law Judges to a panel discussion entitled "The Right and the Wrong Way to Handle the Pro Se Litigant." The discussion will be held at 12:15 PM, Friday, February 22, 2002, at the CBA offices at 321 S. Plymouth Court, next to the John Marshall Law School in Chicago's South Loop. The room will be posted in the first floor lobby under the Judiciary Committee. The meeting is free.

Speaking on the panel will be Judges Dorothy F. Jones, Jane Louise Stuart and Sheldon C. Garber, all of the 1st Municipal District, Circuit Court of Cook County.

State Senator Kirk Dillard (41st, Westmont) has again introduced a bill (SB 1991) to amend the Illinois Administrative Procedure Act and create a Office of Administrative Hearings in Illinois that would hear cases from other state agencies thereby separating the adjudicative and prosecutorial functions of state agencies. The bill is similar to a bill that was introduced in the past, was supported by the Chicago bar Association, the Illinois State Bar Association and the Illinois Association of Administrative law Judges and which passed the Illinois Senate.

The new bill includes amendments suggested by the IAALJ and the CBA's Administrative Law and Administrative Law Judges Committees. The bill can be found on the Illinois General Assembly's web site at [www.legis.state.il.us](http://www.legis.state.il.us).

At the National Association of Administrative Law Judges annual meeting in Austin, Texas, last year the membership voted to increase membership dues to \$50 for general membership and \$35 for affiliated membership (members in an affiliated organization like the IAALJ). The increase was \$15 for general members and \$14 for affiliated members. This was actually a much better result than previously proposed and represents a victory for affiliated states including Illinois.

The IAALJ Board, meeting this month, voted to recommend to its membership that their dues be raised to \$40 for at least the first year in response to the NAALJ increase. Such a motion will be made to the membership at the annual meeting.

Visit the IAALJ website at <http://firms.findlaw.com/IAALJ/>

## MARYLAND:

On February 6, 2002, the MAAA Winter



Meeting was held at the office of the Department of Budget and Management in Annapolis. The Honorable T. Eloise Foster, Secretary, Department of Budget and Management was the guest speaker. She spoke in great detail regarding the current budget proposal by the Governor. It was extremely interesting and informative. Dinner was excellent as usual. Thanks to all who collaborated to put together such a successful meeting.

On March 7, 2002 MAAA and the Administrative Law Section of the Maryland State Bar Association co-sponsored a luncheon and seminar at the University of Baltimore School of Law in association with Professor Arnold Rochvarg. The program was designed to provide an informal setting for students enrolled in the studies of administrative law where they could meet and speak with attorneys and practitioners in the field.

The program was well attended and well received. Students were invited to spend approximately ten minutes with each group of members of the MAAA/MSBA contingency seated at ten tables. The format was lively and informal, and the participants (members and students alike) were quite enthusiastic.

MAAA members were present in large numbers representing the full spectrum of our association. Those in attendance indicated that they are looking forward to repeating the program next year, and hope that even more can take advantage of this opportunity to meet and mingle with the next generation of administrative law professionals...and *future members of MAAA*.



*MSBA Administrative Law Section chair and MAAA ALJ Jody Plymyer addresses the assembled luncheon group*

We are awaiting confirmation for our 3<sup>rd</sup> annual Spring Dinner Cruise on the Maryland State Yacht, *Independence*. Plans are in the initial stages and will be made available when finalized.



For details, visit the MAAA website at : <http://www.m-a-a-a.org>

## ALASKA:

The Alaska Association of Administrative Law Judges held its annual meeting on February 6, 2002 and elected officers. Ed Hein, Office of Administrative Appeals, Alaska Region, National Marine Fisheries Service is President. Shelley Higgins, Office of Tax Appeals, Department of Administration, State of Alaska is Vice President, Andy Hemenway, Department of Administration, State of Alaska is Secretary. Mark Handley, Department of Appeals, National Marine Fisheries Service, Alaska Region is National Liason. The National Association of Hearing Officers ("NAHO") is holding its annual training conference in Anchorage, Alaska from September 29, 2002 to October 2, 2002. A number of us are planning to participate.

## NOTICES:

**THE NAALJ NEWS IS STILL COLLECTING E-MAIL ADDRESSES FOR THE MEMBERSHIP. IF YOU ARE READING THIS FROM THE WEB PAGE, ARE A MEMBER, AND DID NOT RECEIVE E-MAIL NOTIFICATION, WE STILL NEED YOUR ADDRESS. SEND THE INFORMATION TO <mailto:robert.layton@mail.state.ky.us>**

**THE NON-LAWYER ALJ COMMITTEE IS TRYING TO COLLECT A CURRENT LIST OF NON-LAWYER HEARING OFFICIALS. SEND THE INFORMATION TO DAVE MARCUS AT <mailto:ddtmarcus@netzero.net>**

## NEW NAALJ BOARD MEMBERS ELECTED



At the recent annual meeting held in Austin Texas, the membership elected new officers and Board of Governors members. The complete list of those elected can be found on page in the Past-President's column. Traditionally, the newsletter has printed a brief biographical sketch of those members who were elected for the first time to introduce them to all of the members. This year will be no exception. The newly elected freshman class consisted of:

### STEVE MIHALCHICK

Steve Mihalchick is an Administrative Law Judge with the Minnesota Office of Administrative Hearings. His hearing docket places emphasis on utility cases, but he also hears a wide variety of professional license, business regulation, and other types of cases.

For 10 years before becoming an ALJ, Steve was an Attorney in private practice. Before that he served as a hearing officer with the Minnesota Office of Hearing Examiners for three years.



Steve received his B.A. in Business Administration from the University of St. Thomas, located in St. Paul, Minnesota in 1965. He then entered the United States' Air Force where he served as an aircraft controller and systems programmer. After leaving the Air Force, he entered the William Mitchell College of Law in St. Paul, Minnesota, from which he was graduated in 1975 with his J.D., cum laude, 1975

### Lois Oakley



Lois Oakley received her undergraduate degree from Wellesley College in 1970 and her law degree from Georgetown University in 1974. She has served as an Assistant Attorney General for the State of Georgia, and has practiced corporate law with a major Atlanta law firm. She has taught business law and authored a treatise entitled Georgia Corporations. Prior to joining the Georgia Office of State Administrative Hearings, she ran a small business and was an active participant in several community service organizations. She was appointed as Georgia's Chief State Administrative Law Judge in 2000.



### MIKE NOLAN

Mike Nolan was appointed, on January 1, 1990, as one of the original Administrative Law Judges ("ALJ's") to serve the Maryland Office of Administrative Hearings ("OAH"). In that capacity, he conducts hearings, as well as mediations and settlement conferences, in a wide range of administrative law subject areas. Mike is recognized as a specialist at the OAH in the areas of Motor Vehicle Administration law and Child Support Enforcement law. Prior to his appointment as an ALJ, Mike served as a Hearing Officer for the Maryland Motor Vehicle Administration and, prior to that, a District Court Commissioner for the District Court of Maryland for Anne Arundel County. He graduated with a B.S. in Law Enforcement and Criminal Justice from the University of Baltimore and received his law degree from the University of Baltimore School of Law, *cum laude*. He is licensed to practice law by the Maryland Court of Appeals and the United States District Court for the District of Maryland.

Mike is the current chairman of the NAALJ Technology Committee (aka geek). He is the listowner of the NAALJ online e-mail discussion group, which can be found at <http://groups.yahoo.com/group/NAALJ>. He is the Vice President of the Maryland Association of Administrative Adjudicators ("MAAA"), which is a NAALJ affiliate, and also serves as the webmaster for the NAALJ homepage, located at <http://www.naalj.org> and as webmaster for the MAAA homepage, which is located at <http://www.m-a-a-a.org>.



## NAALJ AND NCALJ MEDITATION FOR ALJS TRAINING ADDS THE NATIONAL JUDICIAL COLLEGE AS A COSPONSOR

NAALJ, the National Judicial College (NJC), and the National Conference of Administrative Law Judges, Judicial Division, American Bar Association (NCALJ), will offer a joint training program on Mediation for Administrative Law Judges. The program will be an update of the successful ADR training program that NAALJ and NCALJ have cosponsored for the past four years. NJC will provide additional financial, administrative, training, marketing, and faculty development resources to the training program. Students will be able to count it toward an NJC Certificate In Judicial Development. Marshall Snider, Chief ALJ for the State of Colorado, and Nancy Lynch, former chief of the ADR section, Texas State Office of Administrative Hearings, will continue to head the faculty for this program. Bert Harberson of the Counsel of State Governments will also be a faculty member. NJC will announce the dates for the first training session under the new arrangement in their next catalogue.

Everyone involved thanked Ed Felter for his work in negotiating these arrangements. NJC President Bill Dressel and Dean Ernest Borrunda both expressed their enthusiasm about adding this program to the NJC catalogue. NAALJ president Larry Craddock and NCALJ chair Jodi Levine said that they look forward to working with NJC in this and other future joint projects.

Larry Craddock (Tx.)





**REGISTRATION FORM  
BECOMING A BETTER JUDGE  
NCALJ/NAALJ MID-YEAR  
JOINT TRAINING SESSION**



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Chicago, IL 60611  
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