



# Administrative Law Section



**CHAIR:**

Patrick L. "Booter" Imhof  
Florida Senate  
404 S. Monroe St.  
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(850)487-5957

**CHAIR-ELECT:**

J. Andrew Bertron, Jr.  
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(850)224-7091

**SECRETARY:**

Elizabeth W. McArthur  
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**TREASURER:**

Seann M. Frazier  
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(850)222-6891

**IMMEDIATE PAST CHAIR:**

Deborah K. Kearney  
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**BOARD LIAISON:**

Lawrence E. Sellers, Jr.  
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(850)425-5671

**P.U.L.C. CHAIR:**

Cynthia B. Miller  
2540 Shumard Oak Blvd.  
Tallahassee, FL 32399-7019  
(850)413-6082

**EXECUTIVE COUNCIL:**

**Terms Expiring 2007:**

Donna E. Blanton  
Tallahassee  
Mary Ellen Clark  
Tallahassee  
Allen R. Grossman  
Tallahassee  
Lisa S. Nelson  
Tallahassee  
Linda M. Rigot  
Tallahassee  
W. David Watkins  
Tallahassee  
William E. Williams  
Tallahassee

**Terms Expiring 2008:**

F. Scott Boyd  
Tallahassee  
Clark R. Jennings  
Tallahassee  
Bruce D. Lamb  
Tampa  
M. Catherine Lannon  
Tallahassee  
Wellington H. Meffert  
Tallahassee  
Cathy M. Sellers  
Tallahassee  
T. Kent Wetherell, II  
Tallahassee

**SECTION ADMINISTRATOR:**

Jackie Werndli  
651 E. Jefferson St.  
Tallahassee, FL 32399-2300  
(850)561-5623

**Administrative Law Section Executive Council Meeting  
Thursday, April 5, 2007 – 3:00 p.m.**

**EXECUTIVE COUNCIL AGENDA**

- I. CALL TO ORDER – Patrick L. "Booter" Imhof, Chair
- II. PRELIMINARY MATTERS
  - A. Consideration of Minutes
    1. February 9, 2007 – Executive Council Meeting
    2. February 9, 2007 – Long Range Planning Retreat
  - B. Treasurer's Report – Seann M. Frazier
    1. 3/15/07 Detail Statement of Operations
  - C. Chair's Report – Patrick L. "Booter" Imhof
- III. COMMITTEE/LIAISON REPORTS
  - A. Continuing Legal Education – Seann M. Frazier
  - B. Publications – Deborah K. Kearney
    1. Newsletter – Elizabeth W. McArthur/Donna E. Blanton
      - a. Agency Snapshots – Mary Ellen Clark
    2. TFB *Journal* – Deborah K. Kearney
  - C. Legislative – J. Andrew Bertron/Linda M. Rigot/William E. Williams
    1. 2006 – 2008 Biennium Legislative Positions
  - D. Public Utilities Law – Cynthia B. Miller
    1. 2006 Florida Telecom and Energy Legislation Update
  - E. Membership – T. Kent Wetherell, II
  - F. Webpage – Daniel E. Nordby
    1. Listserv
  - G. Uniform Rules of Procedure – Linda M. Rigot
  - H. Board of Governors Liaison – Lawrence E. Sellers, Jr.
    1. BOG Report – 1/26/07 Meeting
  - I. Law School Liaison – Cathy M. Sellers
  - J. CLE Committee Liaison – M. Catherine Lannon/Seann M. Frazier
  - K. Council of Sections – Mary Ellen Clark/Patrick L. Imhof/Clark R. Jennings
  - L. Section/Division Liaison
    1. Environmental and Land Use Law – Cathy M. Sellers
    2. Health Law – Allen R. Grossman
    3. YLD Liaison – Rhonda Chung-DeCambre Stroman
  - M. DOAH Update – Lisa S. Nelson/Linda M. Rigot/T. Kent Wetherell, II
  - N. Appellate Court Rules ad hoc Committee – M. Catherine Lannon/William E. Williams
- IV. OLD BUSINESS

V. NEW BUSINESS

VI. INFORMATIONAL

- A. Executive Council List
- B. 2006-07 Committee List

VII. TIME AND PLACE OF NEXT MEETING

June 28, 2007 – in conjunction with The Florida Bar Annual Convention

VIII. ADJOURNMENT

	February 2007 Actuals	YTD 06-07 Actuals	Budget	Percent Budget Spent
Administrative Law				
31435 Admin Fee Adj	0	0	650	0.00
31431 Section Dues	25	26,982	28,125	95.94
31432 Affilliate Dues	0	0	125	0.00
31433 Admin Fee to TFB	(18)	(19,605)	(19,788)	99.08
<b>Total Dues Income-Net</b>	<b>7</b>	<b>7,377</b>	<b>9,112</b>	<b>80.96</b>
32012 Sct Share Online CLE	0	92	0	*
32191 CLE Courses	1,440	4,115	5,000	82.30
32395 Mat Sales-Sect Shr	0	0	5	0.00
35700 Member Service Progr	0	0	2,000	0.00
38499 Investment Allocatio	0	9,042	10,004	90.38
39999 Miscellaneous	0	0	150	0.00
<b>Other Income</b>	<b>1,440</b>	<b>13,249</b>	<b>17,159</b>	<b>77.21</b>
<b>Total Revenues</b>	<b>1,447</b>	<b>20,626</b>	<b>26,271</b>	<b>78.51</b>
51101 Employee Travel	25	25	1,190	2.10
01 Postage	0	73	200	36.50
84002 Printing	0	116	2,700	4.30
84003 Officers Office Expe	0	0	500	0.00
84006 Newsletter	0	1,953	2,500	78.12
84007 Membership	0	0	500	0.00
84009 Supplies	0	0	50	0.00
84010 Photocopying	0	88	150	58.67
84051 Officers Travel Expe	0	0	2,500	0.00
84052 Meeting Travel Expen	0	0	3,000	0.00
84054 CLE Speaker Expense	0	0	100	0.00
84101 Committee Expenses	0	0	500	0.00
84201 Board Or Council Mee	0	286	600	47.67
84202 Bar Annual Meeting	0	0	1,700	0.00
84205 Section Service Prog	0	320	5,000	6.40
84209 Retreat	1,436	1,436	4,500	31.91
84299 Public Utility Comm	0	0	500	0.00
84301 Awards	0	0	600	0.00
84310 Law School Liaison	0	1,175	4,900	23.98
84422 Website	0	315	6,000	5.25
84501 Legislative Consulta	0	0	5,000	0.00
84701 Council Of Sections	0	0	300	0.00
84998 Operating Reserve	0	0	4,506	0.00
84999 Miscellaneous	0	2	500	0.40
<b>Total Operating Expenses</b>	<b>1,461</b>	<b>5,789</b>	<b>47,996</b>	<b>12.06</b>
31 Meetings Administrat	0	0	32	0.00
84543 Graphics & Art	154	1,331	1,543	86.26

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	February 2007 Actuals	YTD 06-07 Actuals	Budget	Percent Budget Spent
Administrative Law	-----	-----	-----	-----
Total TFB Support Services	154	1,331	1,575	84.51
Total Expenses	1,615	7,120	49,571	14.36
Net Operations	(168)	13,506	(23,300)	(57.97)
21001 Fund Balance	0	174,359	142,919	122.00
Total Current Fund Balance	(168)	187,865	119,619	157.05

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	February 2007 Actuals	YTD 06-07 Actuals	Budget	Percent Budget Spent
Administrative Law Conf				
Total Dues Income-Net	0	0	0	*
32001 Registrations	0	0	12,000	0.00
34001 Book Sales	0	0	50	0.00
Other Income	0	0	12,050	0.00
Total Revenues	0	0	12,050	0.00
61201 Equipment Rental	0	400	1,000	40.00
75102 1st Class & Misc Mai	0	0	50	0.00
75401 Express Mail	0	0	5	0.00
81411 Promotional Printing	0	0	150	0.00
81412 Promotional Mailing	0	0	1,000	0.00
84001 Postage	0	0	250	0.00
84002 Printing	0	14	1,650	0.85
84061 Reception	0	1,600	1,700	94.12
84062 Luncheons	0	3,000	3,500	85.71
31 Speakers Travel	0	0	500	0.00
88241 Outline Prt-Inhouse	0	0	500	0.00
88243 Outline Binders	0	0	1,200	0.00
88252 Course Credit Fee	0	150	150	100.00
88261 Meeting Room Rent	0	1,620	2,500	64.80
88265 Refreshment Breaks	0	1,124	2,500	44.96
Total Operating Expenses	0	7,908	16,655	47.48
86532 Advertising News	0	0	1,000	0.00
Total TFB Support Services	0	0	1,000	0.00
Total Expenses	0	7,908	17,655	44.79
Net Operations	0	(7,908)	(5,605)	141.09
Total Current Fund Balance	0	(7,908)	(5,605)	141.09

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	February 2007 Actuals	YTD 06-07 Actuals	Budget	Percent Budget Spent
C0480 2006 Pat Dore Conf				
Total Dues Income-Net	0	0	0	*
32001 Registrations	0	23,975	0	*
32201 Audio Tapes	0	3,060	0	*
32205 Compact Disc	1,485	6,105	0	*
32301 Course Materials	0	210	0	*
Other Income	1,485	33,350	0	*
Total Revenues	1,485	33,350	0	*
36998 Credit Card Fees	33	555	0	*
75102 1st Class & Misc Mai	0	51	0	*
75401 Express Mail	41	281	0	*
81411 Promotional Printing	0	525	0	*
81412 Promotional Mailing	0	1,113	0	*
86432 Time Taping Editing	(300)	1,500	0	*
88241 Outline Prt-Inhouse	0	1,835	0	*
88281 A/V Ctr Dup/Prod	(840)	1,440	0	*
Total Operating Expenses	(1,066)	7,300	0	*
83431 Time CLE Courses	0	99	0	*
86532 Advertising News	0	1,319	0	*
86543 Graphics & Art	0	297	0	*
86623 Registrars	270	5,055	0	*
Total TFB Support Services	270	6,770	0	*
Total Expenses	(796)	14,070	0	*
Net Operations	2,281	19,280	0	*
Total Current Fund Balance	2,281	19,280	0	*

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**Administrative Law Section**  
**2006-2008 Legislative Biennium**  
**July 28, 2006**

1. Opposes any amendment to Chapter 120, *Florida Statutes*, or other legislation, that undermines the rule-making requirements of the Administrative Procedure Act by allowing statements of agency policy without formal rule-making.
2. Opposes any amendment to Chapter 120, *Florida Statutes*, or other legislation to deny, limit or restrict points of entry to administrative proceedings under Chapter 120, *Florida Statutes*, by substantially affected persons.
3. Opposes exemptions or exceptions to the Administrative Procedure Act, but otherwise supports a requirement that any exemption or exception be included within Chapter 120, *Florida Statutes*.
4. Supports voluntary use of mediation to resolve matters in administrative proceedings under Chapter 120, *Florida Statutes*, and supports confidentiality of discussions in mediation; but opposes mandatory mediation and opposes imposition of involuntary penalties associated with mediation.
5. Supports uniformity of procedures in administrative proceedings under Chapter 120, *Florida Statutes*, and supports modification of such procedures only through amendment of or exceptions to the Uniform Rules of Procedure.
6. Opposes amendment to Chapter 120, *Florida Statutes*, that limits, restricts, or penalizes full participation in the administrative process, in the absence of compelling justification or non-anecdotal evidence which demonstrates that the existing provisions of law are not adequately protecting the administrative due process rights of all participants.

At its January 26 meeting in Tallahassee, The Florida Bar Board of Governors:

- Approved a proposed rule revising regulations on attorney Web pages. The rule requires attorney home pages, or the first or main page of a Web site, comply with Bar advertising rules. Inside pages, however, would allow three exceptions: Lawyers would be able to refer to past results, include testimonials from clients and list clients (with permission from those clients), and make statements characterizing the quality of their legal services. However, such statements would have to be verifiable and accompanied by a disclaimer that the facts in each case are different, the lawyer may not be able to obtain similar results on the potential client's case, and the potential client should seek additional information before hiring an attorney.

The rule will come back to the board for final approval at its March meeting and in the meantime the Bar will seek feedback from members about the potential rule.

- Heard Justice Peggy Quince, appearing on behalf of Chief Justice Fred Lewis, ask the Bar to continue supporting a pay equity plan for nonjudicial court employees and to support Lewis' reconstitution of the Judicial Management Council, which assists the court on a variety of upcoming issues including long-range planning.

- Heard Justice Barbara Pariente report that the number of lawyers performing pro bono work for the poor is declining, as are the hours and monetary contributions made by lawyers to legal aid programs. She and board members discussed several ways to reverse that trend.

- Received on first reading an amendment to Rule 4-8.4(i) on sex with clients. The rule would create a rebuttable presumption that an attorney engaging in a sexual relationship with a client harms the client or affects the representation unless the sexual relationship predated the attorney-client relationship. It would replace the current rule that requires proof that the relationship exploits the client, which has been criticized as too vague and hard to enforce. The rule will come back to the board for final approval at its March meeting.

- Approved a Bar legislative position supporting the Supreme Court's certification for the need of 37 new judges this year.

- Approved recommendations from the Program Evaluation Committee to disband the Quality of Life and Career Committee and to merge the Practice Management and Development Section into the General Practice, Solo and Small Firm Section.

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- Agreed to a request from the Criminal Law Section Executive Council that the Bar direct its legislative lobbyists to support improved funding for legal services for the indigent, and an early release of state funds in the current budget year allocated for those purposes because of a serious shortfall. The services affected include paying for court interpreters, court reporters, conflict public defenders and similar services. Without an early release of funds, the state is expected to run out of money for those services early in February and even with an early release to expend the entire budget by mid-March. The activity falls within the Bar's legislative position of supporting full funding for the courts, the court system, and related agencies.

- Approved a proposal from the Communications Committee to provide an easier way for Bar members to get a password to access the Bar's Web site.

- Approved, on the recommendation of the Disciplinary Procedure Committee, that all future public reprimands be administered in front of the Board of Governors, unless waived by a two-thirds vote of the board. The board acted on two other recommendations from the Commission on Lawyer Regulation, and received several other recommendations that will come up for a board vote at its March 30 meeting.

- Voted to co-sponsor a New York State Bar resolution at the ABA House of Delegates critical of a recent Defense Department official's call for corporations to stop hiring lawyers doing pro bono representation of Guantanamo detainees. The board also directed the delegates it appoints to the House to support that resolution. Board members noted the resolution is consistent with long-standing Bar support of pro bono work by lawyers.

- Heard a presentation from Jacksonville attorney Sharon Caserta on the difficulties hearing-impaired and deaf people have in the court system, including getting accurate and qualified interpreters. She presented five recommendations where the Bar could help address those problems.

- Heard a report from the Board of Legal Education and Specialization that all but four certification areas have sections on ethics and professionalism in their certification exams. The BLSE adopted a motion requiring that all certification exams to include a segment on ethics and professionalism.

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<b>AL</b>		
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Administrative Law Section  
Committees and Liaisons 2006-2007

CLE Committee	Seann Frazier, Chair Li Nelson Cathy Sellers Wellington Meffert
TFB CLE Committee Liaison	Cathy Lannon Seann Frazier, Alternate
Council of Sections Liaison	Mary Ellen Clark Patrick L. "Booter" Imhof Clark Jennings
Law School Liaison	Cathy Sellers, Chair Scott Boyd Bruce Lamb Daniel Nordby
Legislation	Bill Williams, Chair Linda Rigot Andy Bertron
Long Range Planning	Andy Bertron, Chair Dave Watkins
Membership	Kent Wetherell, Chair Scott Boyd
Publications	Debby Kearney, Chair
Newsletter	Elizabeth MacArthur, Editor Donna Blanton, Assistant Editor
Casenotes Editor	Mary Smallwood
Agency Reporters Editor	Mary Ellen Clark
Bar Journal Column Editor	Debby Kearney
Public Utilities	Cindy Miller
Webpage Liaison	Daniel Nordby, Chair Cathy Lannon Kent Wetherell
Uniform Rules	Linda Rigot
Environmental & Land Use Law Section Liaison	Cathy Sellers

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Health Law Section Liaison

Allen Grossman

Appellate Rules Committee Liaison

Bill Williams  
Cathy Lannon

Board of Governors Liaison

Larry Sellers

Young Lawyers Board Liaison

Rhonda Chung-DeCambre Stroman

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