

On appeal, the majority affirmed the final order of AHCA. It held that the starting point of its analysis was the deference owed to the agency's interpretation of laws within its area of expertise. Therefore, AHCA's order could not be reversed unless it was clearly erroneous.

Judge Cope dissented. He opined that the correct analysis must start with the clear and unambiguous lan-

guage of the statute. The statute required that the owner (Trust Care) and the controlling interest (Marrero) disclose whether there had been a termination of Medicare participation. Trust Care had never been terminated and Marrero, personally, had never been terminated. Judge Cope apparently concluded that Marrero was not a controlling interest in All Med.

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## Agency Snapshot

# Florida Department of State

by Daniel E. Nordby

The Office of the Secretary of State was created under the Florida Constitution in 1845 as the keeper of the Great Seal of the State of Florida and the custodian of the Laws of Florida. In addition to these responsibilities, the Secretary of State today serves as Florida's Chief Election Officer and, as head of the Department of State, which oversees the Divisions of Corporations, Cultural Affairs, Historical Resources, and Library & Information Services.

The Department of State's Division of Library and Information Services may be best known to administrative law practitioners as the filing point for rules promulgated by state agencies; as the publisher of the Florida Administrative Weekly and Florida Administrative Code; and the operator of the *www.frules.org* website.

### Head of the Agency:

Dawn Roberts, Interim Secretary  
R. A. Gray Building  
500 South Bronough Street  
Tallahassee, FL 32399-0250

Dawn Roberts was appointed Interim Secretary of State effective May 3, 2010. Prior to her appointment, Ms. Roberts served as Assistant Secretary of State and Chief of Staff to Secretary Kurt Browning, Director of the Division of Elections during the 2004 and 2006 election cycles, and the

Department's General Counsel from August 2003 to June 2004.

### Agency Clerk:

Charlotte Wheeler  
R. A. Gray Building  
500 South Bronough Street  
Tallahassee, FL 32399-0250  
Phone: (850) 245-6536

### General Counsel:

C.B. Upton  
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The Agency's General Counsel is C.B. Upton, a graduate of the University of Tennessee and the Stetson University College of Law. After graduating from law school, Mr. Upton clerked for Judge Siler on the United States Court of Appeals for the Sixth Circuit. Before joining the Department of State, Mr. Upton worked as an attorney with the Tampa office of Arnstein and Lehr LLP and served for over two years as a Deputy Solicitor General in the office of Attorney General McCollum.

### Number of lawyers on staff: 5

### Kinds of Cases:

Approximately 75-80% of the Department's cases involve litigation over campaign finance and election law matters. The remaining 20-25%

of cases include constitutional challenges in which the Department is a named defendant and various matters arising out of the Department's Divisions of Corporations, Cultural Affairs, Historical Resources, or Library & Information Services. The Florida Administrative Procedure Act is implicated in approximately 10-15% of the Department's cases.

### Practice Tips:

As with most agencies, the attorneys in the Department's Office of the General Counsel are each assigned a portfolio of legal issues arising from different divisions within the Department. To be most effective in representing clients before the agency, ensure that you are speaking with the right attorney. The Department's attorneys are easily reachable, which is particularly important given the time-sensitive nature of many of the Department's election law cases.

Public records requests should be sent to the Department's Public Information Director:

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R. A. Gray Building  
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(850) 245-6527  
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