



Administrative Law Section



CHAIR:

Patrick L. "Booter" Imhof
Florida Senate
404 S. Monroe St.
Tallahassee, FL 32399-1100
(850)487-5957

CHAIR-ELECT:

J. Andrew Bertron, Jr.
1983 Centre Pointe Blvd., Ste. 200
Tallahassee, FL 32308-7823
(850)224-7091

SECRETARY:

Elizabeth W. McArthur
P.O. Box 10967
Tallahassee, FL 32302-2967
(850)425-6654

TREASURER:

Seann M. Frazier
101 E. College Ave.
Tallahassee, FL 32301-7742
(850)222-6891

IMMEDIATE PAST CHAIR:

Deborah K. Kearney
327 The Capitol
404 S. Monroe St.
Tallahassee, FL 32399-1300
(850)488-7631

BOARD LIAISON:

Lawrence E. Sellers, Jr.
P.O. Box 810
Tallahassee, FL 32302-0810
(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/Annual Meeting June 28, 2007 – 3:00 p.m.

AGENDA

- I. CALL TO ORDER – Patrick L. "Booter" Imhof, Chair
- II. PRELIMINARY MATTERS
 - A. Consideration of Minutes
 1. April 5, 2007 – Executive Council Meeting
 - B. Treasurer's Report – Seann M. Frazier
 1. 06/08/07 Detail Statement of Operations
 2. Financial Summary – Pat Dore Conference
 3. Section Administrative Report
 4. Section CLE Earnings
 - 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
 - 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. Meeting Summary – June 1, 2007
 2. Major Actions – 2006-2007
 - I. Law School Liaison – Cathy M. Sellers
 - J. CLE Committee Liaison – M. Catherine Lannon/Seann M. Frazier
 1. TFB CLE e-Newsletter
 - 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
 - A. CLE Video Presentations
- V. NEW BUSINESS
 - A. Section Officer/Executive Council Election
 - 1. Nominating Committee Recommendations
- VI. INFORMATIONAL
- VII. FINAL REMARKS & PRESENTATION OF AWARDS — Outgoing Chair
- VIII. PROGRAM OUTLINE & CLOSING COMMENTS — Incoming Chair
- IX. TIME AND PLACE OF NEXT MEETING
Fall 2007 – Tallahassee
- X. ADJOURNMENT

MINUTES
ADMINISTRATIVE LAW SECTION EXECUTIVE COUNCIL MEETING

April 5, 2007

Tallahassee, Florida

Draft: not yet reviewed or approved by Executive Council

I. CALL TO ORDER: Executive Council Chair-Elect Andy Bertron called the meeting to order at 3:05 pm.

Present: Andy Bertron, Elizabeth McArthur, Seann Frazier, Kent Wetherell, Bill Williams, Dave Watkins, Linda Rigot, Clark Jennings, Debby Kearney, Allen Grossman, Wellington Meffert, Donna Blanton, Cynthia Miller, Cathy Lannon, Larry Sellers, Daniel Nordby, and Jackie Werndli.

Absent: Booter Imhof, Scott Boyd, Mary Ellen Clark, Cathy Sellers, Li Nelson, and Bruce Lamb.

II. PRELIMINARY MATTERS:

A. Minutes — February 9, 2007

The minutes of the February 9, 2007, Executive Council meeting and Long-Range Planning Retreat were approved with one correction to indicate that Andy Bertron is Chair-Elect.

B. Treasurer's Report

Seann Frazier reported that the Section is well ahead of budget right now, but that not all of the expenses from the 2006 Pat Dore Conference had been allocated yet, and we still do not know what impact The Florida Bar's new expense allocation system will have.

C. Chair's Report

None.

III. COMMITTEE/LIAISON REPORTS

A. Continuing Legal Education

Seann Frazier reported that the Section has been asked to co-sponsor a state and federal administrative and governmental practice certification review course to be held on August 16-17, tentatively planned for Jacksonville, along with the Government Lawyers Section and the Environmental and Land Use Law Section, with each Section bearing 1/3 of the financial responsibility. The low number of applicants to take the certification exam was noted. After discussion, on motion made and duly seconded, the council voted to agree to 1/3 co-sponsorship of this program if it is held in Tallahassee. Bill Williams and Allen Grossman abstained from this vote.

III A 1(1)

Seann Frazier reported that it looked like there would not be a basic administrative law Young Lawyers' Division seminar in spring 2008, leaving the spring 2008 slot open. Apparently a very large amount of lead time is necessary to coordinate a YLD seminar, and after discussion, it was agreed that the council should make known now its willingness to support a basic administrative law YLD seminar in spring 2009, to give enough lead time to allow this program to happen.

Seann Frazier also reported on the Government Lawyers' Section's request that the Section support and assume a 10% share of the financial responsibility of an April 2008 federal APA seminar to be held in Washington, D.C. It was noted that last year's federal APA seminar lost money, although some changes have been discussed to reduce the costs. After discussion, on motion made and duly seconded, the council voted to fully support the federal APA seminar but not to share in the financial responsibility. Support for this program will include lending the Section's name to the seminar if that is desired, and providing space to advertise for the program in the Section newsletter and on its website. Bill Williams and Allen Grossman abstained from this vote.

Jackie Werndli provided an update on CLE cost/revenue allocation issues that are being worked out and remain fluid with The Florida Bar. One change that has been agreed to is that the per-format charge for CLE audiotapes and videotapes has been reduced from \$900 to \$750, but that the per-order change fee is staying at \$15 and the per-tape fee is going up from \$10 to \$15. It will be the end of the year or later, after the audited statements are reviewed, before these allocation issues are finalized.

Jackie Werndli then discussed how these allocation issues will affect the Section's financial performance from the 2006 Pat Dore Conference. If that conference is treated as a Section-sponsored program, then a problem caused by the new allocation system is that there is still the old policy adopted by The Florida Bar in 1993 when there was no allocation of direct expenses to Section seminars that a Section cannot make more than \$3,000 on any one program, and if there are multiple programs in one year, then no more than \$5,000 can be made in any one year, with any excess profit going back to The Florida Bar. Another negative financial impact is a new treatment of seminar tape revenues as being newly allocated to the courses (so that if there is a profit from the tape sales, then that profit is subject to the cap). If the seminar is treated as a CLE course of The Florida Bar and not of the Section, however, then the cap does not apply, but The Florida Bar will typically be in control of setting the fee for the program. It may be possible for the 2006 Pat Dore Conference to be treated as a CLE course of The Florida Bar, which may be better financially for the Section given all of the new revenue and cost allocations. On motion made and seconded, the council voted to authorize Jackie Werndli to proceed to characterize the 2006 Pat Dore Conference however yields the best financial results for the Section.

B. Publications

Debby Kearney reported that she has several articles lined up for the next several issues of The Florida Bar *Journal*.

Elizabeth McArthur reported that the March issue of the Newsletter had just come out, and that it had a General Counsels directory instead of agency snapshots, noting that there have been several recent newsletters without any agency snapshots and volunteers are needed. Seann Frazier volunteered for an agency snapshot update on the Agency for Health Care Administration, and Allen Grossman agreed to do an agency snapshot update on the Department of Health. All members were encouraged to check the agency snapshot page of the Section's website, and to volunteer to do agency snapshots for those agencies that had not yet been covered.

C. Legislative

Bill Williams reported on APA-related bills. SB 1592 deals with unadopted rules and removes the caps on attorney's fees in rule challenges. SB 1594 deals with incorporation by reference and codifies the case holding that there is a right to a formal administrative hearing when disputed issues of fact arise during the course of an informal hearing. Linda Rigot noted that SB 1970 deals with agency exemptions, following up on the Senate Committee on Governmental Oversight's study on the need to continue existing exemptions. Not very many exemptions were identified as no longer necessary as a result of this effort.

D. Public Utilities Law

Cindy Miller reported that the seminar conducted at the Mary Brogan Museum went well, and that the different venue was well-received.

E. Membership

Kent Wetherell reported that Section membership was up by just over 100 so far this year. He will be speaking at a Young Lawyers Division – Tallahassee Bar program to be held at FSU, and he will make Section brochures available there.

F. Webpage

Daniel Nordby reported that the website now has newsletters going back for 10 years, and all agency snapshots accessible on a separate page. They are working on technical issues for Listserv, and plan to get some information out in the next newsletter.

G. Uniform Rules of Procedure

Linda Rigot reported that the Joint Administrative Procedures Committee had indicated that the Governor's office had agreed to proceed with two changes to the Uniform Rules. She has signed up on the list of persons to get notice of any proposed rule amendments, and will watch for the changes. Cathy Lannon reported that the Tallahassee Women Lawyers will be doing a CLE seminar on the amendments to the Uniform Rules.

H. Board of Governors Liaison

Larry Sellers reported on the March 30 meeting of The Florida Bar Board of Governors, including its approval of a proposed advertising rule amendment on attorney and law firm websites, which now goes to the Supreme Court. The Board of Governors also approved a proposal for listing Bar members' ten-year disciplinary history on The

Florida Bar's website, and approved changes to Rule 4-8.4(i) addressing sexual conduct with clients; these changes also go to the Supreme Court.

- I. Law School Liaison
No report.
 - J. CLE Committee Liaison
Nothing new to report
 - K. Council of Sections
There has been no meeting since the last report.
 - L. Section Liaison
 - 1. Environmental and Land Use Law – No report.
 - 2. Health Law – Nothing new to report.
 - 3. YLD Liaison – No report.
 - M. DOAH Update
No news to report.
 - N. Appellate Court Rules ad hoc Committee
No news to report.
- IV. OLD BUSINESS**
None.
- V. NEW BUSINESS**

Cathy Lannon requested that the Section consider sponsoring group showings of CLE videotapes so that those showings would qualify for "live" CLE presentations for purposes of qualifying for certification requirements. The council raised questions regarding costs, charges, and other issues implicated by this request, and determined that there was not enough information regarding what would be required to qualify for a live presentation. On motion, duly seconded, a majority of the council voted to authorize Jackie Werndli to find out whether it is feasible to get in-person credit for group airings of CLE tapes, and if so, what are the cost and charge issues, and report back to the council; but to not authorize any action by the Section on this request at this time. Cathy Lannon voted against the motion.

Andy Bertron announced that the next meeting would be at The Florida Bar's annual meeting, with the council meeting the afternoon of June 28, and the Section's reception held that night. Jackie Werndli noted that information about the annual meeting, with hotel and other information, was on The Florida Bar's website, and she would be sending an email reminder with a link.

On motion, duly seconded, the meeting was adjourned at 4:55 pm.

Respectfully submitted,

Elizabeth McArthur
Secretary

	May 2007 Actuals	YTD 06-07 Actuals	Budget	Percent Budget Spent
Administrative Law ~~~~~				
31435 Admin Fee Adj	0	0	650	0.00
31431 Section Dues	0	27,007	28,125	96.02
31432 Affilliate Dues	0	0	125	0.00
31433 Admin Fee to TFB	0	-19,623	-19,788	99.17

Total Dues Income-Net	0	7,384	9,112	81.04

32012 Sct Share Online CLE	0	92	0	*
32191 CLE Courses	-3,112	5,002	5,000	100.04
32293 Section Differential	160	4,535	0	*
32395 Mat Sales-Sect Shr	0	0	5	0.00
35700 Member Service Progr	0	0	2,000	0.00
38499 Investment Allocatio	0	11,029	10,004	110.25
39999 Miscellaneous	0	0	150	0.00

Other Income	-2,952	20,658	17,159	120.39

Total Revenues	-2,952	28,042	26,271	106.74

101 Employee Travel	0	27	1,190	2.27
84001 Postage	0	101	200	50.50
84002 Printing	0	118	2,700	4.37
84003 Officers Office Expe	0	0	500	0.00
84006 Newsletter	0	2,988	2,500	119.52
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	29	500	5.80
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	0	1,436	4,500	31.91
84299 Public Utility Comm	0	0	500	0.00
84301 Awards	71	71	600	11.83
84310 Law School Liaison	0	1,175	4,900	23.98
84422 Website	0	335	6,000	5.58
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

tal Operating Expenses .	71	6,976	47,996	14.53

86431 Meetings Administrat	0	0	32	0.00

II B 1 (1)

Unaudited Statement of Operations
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|                             | May<br>2007<br>Actuals | YTD<br>06-07<br>Actuals | Budget  | Percent<br>Budget<br>Spent |
|-----------------------------|------------------------|-------------------------|---------|----------------------------|
| Administrative Law<br>~~~~~ |                        |                         |         |                            |
| 86543 Graphics & Art        | 242                    | 1,672                   | 1,543   | 108.36                     |
| Total TFB Support Services  | 242                    | 1,672                   | 1,575   | 106.16                     |
| Total Expenses              | 313                    | 8,648                   | 49,571  | 17.45                      |
| Net Operations              | -3,265                 | 19,394                  | -23,300 | -83.24                     |
| 21001 Fund Balance          | 0                      | 174,359                 | 142,919 | 122.00                     |
| Total Current Fund Balance  | -3,265                 | 193,753                 | 119,619 | 161.98                     |

II B1(2)

|                                        | May<br>2007<br>Actuals | YTD<br>06-07<br>Actuals | Budget | Percent<br>Budget<br>Spent |
|----------------------------------------|------------------------|-------------------------|--------|----------------------------|
| Total Administrative Law Conf<br>===== |                        |                         |        |                            |
| Total Dues Income-Net                  | 0                      | 0                       | 0      | *                          |
| 32001 Registrations                    | 0                      | 23,975                  | 12,000 | 199.79                     |
| 32010 On-Line Seminars                 | 0                      | 185                     | 0      | *                          |
| 32201 Audio Tapes                      | 360                    | 3,900                   | 0      | *                          |
| 32205 Compact Disc                     | 1,245                  | 9,705                   | 0      | *                          |
| 32301 Course Materials                 | 0                      | 210                     | 0      | *                          |
| 34001 Book Sales                       | 0                      | 0                       | 50     | 0.00                       |
| Other Income                           | 1,605                  | 37,975                  | 12,050 | 315.15                     |
| Total Revenues                         | 1,605                  | 37,975                  | 12,050 | 315.15                     |
| 36998 Credit Card Fees                 | 26                     | 523                     | 0      | *                          |
| 61201 Equipment Rental                 | 0                      | 400                     | 1,000  | 40.00                      |
| 75102 1st Class & Misc Mai             | 0                      | 54                      | 50     | 108.00                     |
| 75401 Express Mail                     | 39                     | 359                     | 5      | 7,180.00                   |
| 411 Promotional Printing               | 0                      | 525                     | 150    | 350.00                     |
| 412 Promotional Mailing                | 0                      | 1,113                   | 1,000  | 111.30                     |
| 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                      |
| 86432 Time Taping Editing              | 0                      | 1,500                   | 0      | *                          |
| 88231 Speakers Travel                  | 0                      | 0                       | 500    | 0.00                       |
| 88241 Outline Prt-Inhouse              | 378                    | 2,213                   | 500    | 442.60                     |
| 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                      |
| 88281 A/V Ctr Dup/Prod                 | 240                    | 2,055                   | 0      | *                          |
| Total Operating Expenses               | 683                    | 16,250                  | 16,655 | 97.57                      |
| 83431 Time CLE Courses                 | 0                      | 99                      | 0      | *                          |
| 86532 Advertising News                 | 0                      | 1,319                   | 1,000  | 131.90                     |
| 86543 Graphics & Art                   | 0                      | 297                     | 0      | *                          |
| 86623 Registrars                       | 110                    | 3,880                   | 0      | *                          |
| Total TFB Support Services             | 110                    | 5,595                   | 1,000  | 559.50                     |
| Total Expenses                         | 793                    | 21,845                  | 17,655 | 123.73                     |

II B 1(3)

|                                        | May<br>2007<br>Actuals | YTD<br>06-07<br>Actuals | Budget | Percent<br>Budget<br>Spent |
|----------------------------------------|------------------------|-------------------------|--------|----------------------------|
| Total Administrative Law Conf<br>===== |                        |                         |        |                            |
| Net Operations                         | 812                    | 16,130                  | -5,605 | -287.78                    |
| Total Current Fund Balance             | 812                    | 16,130                  | -5,605 | -287.78                    |

II B 1(4)

Section Administrative Support

|                             | Time Allocation | G & A Allocation | Total Expense | Section Administrative Fee | 11 Month Over (Under) Paid | Max Gen Fund Support |
|-----------------------------|-----------------|------------------|---------------|----------------------------|----------------------------|----------------------|
| Administrative Law          | 20,362          | 4,310            | 24,672        | 19,623                     | (5,049)                    | (11,090)             |
| Appellate Practice          | 14,736          | 3,767            | 18,503        | 24,421                     | 5,918                      | (12,750)             |
| Business Law                | 27,349          | 15,806           | 43,155        | 73,896                     | 30,741                     | (28,695)             |
| Criminal Law                | 19,555          | 5,150            | 24,705        | 41,775                     | 17,070                     | (18,925)             |
| Elder Law                   | 19,766          | 5,330            | 25,096        | 27,128                     | 2,032                      | (13,255)             |
| Entertainment, Art & Sport  | 7,728           | 1,927            | 9,655         | 14,050                     | 4,395                      | (10,000)             |
| Environmental Law           | 27,170          | 6,349            | 33,519        | 34,325                     | 806                        | (15,365)             |
| Equal Opportunities Law     | 2,675           | 157              | 2,832         | 4,267                      | 1,435                      | (10,000)             |
| Family Law                  | 35,119          | 18,565           | 53,684        | 59,288                     | 5,604                      | (23,170)             |
| General Practice            | 22,381          | 8,654            | 31,035        | 32,013                     | 978                        | (15,800)             |
| Government Lawyer           | 13,933          | 1,724            | 15,657        | 15,174                     | (483)                      | (10,465)             |
| Health Law                  | 10,396          | 1,969            | 12,365        | 22,187                     | 9,822                      | (11,760)             |
| International Law           | 17,181          | 2,348            | 19,529        | 15,650                     | (3,879)                    | (10,105)             |
| Labor & Employment Law (1)  | 8,580           | 3,122            | 11,702        | 25,107                     | 13,405                     | (15,740)             |
| City County & Local Gov'n't | 23,490          | 4,485            | 27,975        | 27,225                     | (750)                      | (13,440)             |
| Out of State Division       | 10,688          | 2,203            | 12,891        | 18,954                     | 6,063                      | (10,770)             |
| Pract Mgmt & Development    | 13,006          | 1,473            | 14,479        | 11,622                     | (2,857)                    | (10,000)             |
| Public Interest Law         | 5,784           | 992              | 6,776         | 7,136                      | 360                        | (10,000)             |
| Real Property Probate Trust | 57,643          | 36,186           | 93,829        | 157,830                    | 64,001                     | (53,345)             |
| Tax                         | 31,385          | 9,793            | 41,178        | 33,295                     | (7,883)                    | (15,175)             |
| Trial Lawyers (1)           | 21,051          | 11,439           | 32,490        | 76,155                     | 43,665                     | (39,125)             |
| Workers' Compensation       | 9,492           | 8,184            | 17,676        | 25,796                     | 8,120                      | (12,765)             |
|                             | 419,470         | 153,933          | 573,403       | 766,917                    | 193,514                    |                      |

(1) Section Eligible for Provisional Administrative Fee of \$12.50

HB 300

**Section CLE Earnings (Including the Non-Section Member Surcharge)\***

**10Month**

|                                 | F/E 6/30/02    | F/E 6/30/03    | F/E 6/30/04    | F/E 6/30/05    | F/E 6/30/06    | 5/3/2007        |
|---------------------------------|----------------|----------------|----------------|----------------|----------------|-----------------|
| Administrative Law              | 2,736          | 7,120          | 4,997          | 7,556          | 6,645          | 9,538           |
| Appellate Practice              | 5,508          | 5,149          | 9,064          | 5,641          | 9,192          | 1,973           |
| Business Law                    | 26,912         | 36,334         | 24,186         | 19,337         | 20,786         | 59,150          |
| Criminal Law                    | 18,530         | 17,578         | 23,668         | 24,611         | 16,565         | 53,361          |
| Elder Law                       | 16,837         | 12,658         | 19,119         | 14,221         | 15,160         | 29,385          |
| Entertainment, Art & Sports     | 3,020          | 443            | 1,599          | 255            | 0              | (261)           |
| Environmental Law               | 20,822         | 24,625         | 21,645         | 20,969         | 26,733         | 30,045          |
| Equal Opportunities Law         | 668            | 743            | 741            | 0              | 0              | 0               |
| Family Law                      | 24,322         | 11,612         | 18,225         | 16,035         | 56,844         | 35,768          |
| General Practice                | 19,152         | 23,568         | 31,340         | 18,006         | 40,724         | 105,939         |
| Government Lawyer               | 9,648          | 5,175          | 8,751          | 6,785          | 3,766          | (350)           |
| Health Law                      | 4,154          | 7,912          | 14,414         | 6,278          | 11,730         | (10,360)        |
| International Law               | 22,257         | 21,221         | 28,481         | 36,934         | 26,372         | 45,648          |
| Labor & Employment Law          | 10,419         | 12,383         | 20,308         | 15,134         | 17,935         | 36,646          |
| City County & Local Govn't      | 15,514         | 16,384         | 21,692         | 15,789         | 17,436         | 27,345          |
| Out of State Division           | 3,943          | 3,236          | 3,748          | 4,989          | 1,928          | (11,803)        |
| Pract Mgmt & Development        | 135            | (44)           | 0              | 613            | 3,905          | (5,481)         |
| Public Interest Law             | 2,974          | 1,163          | 2,035          | 1,233          | 1,828          | 166             |
| Real Property Probate Trust     | 85,941         | 49,447         | 56,896         | 132,994        | 119,370        | 277,975         |
| Tax                             | 26,480         | 24,221         | 28,831         | 45,361         | 31,794         | 11,238          |
| Trial Lawyers                   | 32,097         | 30,372         | 33,856         | 24,340         | 27,331         | 51,945          |
| Workers' Compensation           | 7,289          | 8,748          | 8,334          | 8,439          | 10,875         | 10,736          |
| <b>Total Section CLE Profit</b> | <b>359,358</b> | <b>320,048</b> | <b>381,930</b> | <b>425,520</b> | <b>466,919</b> | <b>758,604*</b> |

II B 4 (1)

**Mike Tartaglia/The Florida Bar**

06/22/2007 01:45 PM

To Section Chairs 2006-2007@FLABAR Program Administrators PD@FLABAR  
Cc BOG 2006-2007@FLABAR, John F Harkness/The Florida Bar@FLABAR  
Subject CLE Sets Record!!

Section Chairs,

The Florida Bar 06-07 CLE year is coming to a close and appears to be our best year in the past 10 in registration/sales numbers. Attendance and aftermarket sales (Audio, CD DVD and Video) numbers have exceeded 30,000 with approximately \$5.1 million in gross revenue. The May financial statements show section accounts collectively have been credited with over \$600,000 in cle revenue plus \$153,325 in section differential fees.

At the start of this fiscal year, the Board and staff requested that sections participating in Bar CLE programs give the new financial arrangements for CLE at least one full year in operation before efforts are made to refine the system. In most instances the changes have been beneficial to the cosponsoring section.

The Florida Bar CLE e-Newsletter, sent monthly to our members by LexisNexis, may be the single largest factor in our increased sales. The e-Newsletter highlights the latest in CLE Programs and Publications with a direct link to our CLE registration page.

In addition to the e-Newsletter we added video locations to selected programs to provide easier access for our members and added CD's to our A/V catalog. A free BoG program on the discipline system was hosted by Legalspan (our cle online host) and attracted new users to our online delivery system.

CLE figures as of 6/14/07

CLE On-site (live ,video replay, telephone) up 43% w/o telephone up 36%

06/07 **20,902**

05/06 **14,591**

CLE A/V sales up 10%

06/07 Tape **5408** CD **4337** V **316**

05/06 T **8993** V **172**

CLE Online sales up 26%

06/07 **3053** + Free 1190

05/06 **2428**

III A(1)

2006 Economics Survey selected responses:

**Highest rated TFB activity;**

CLE Programs; 96%

**Preferred format for CLE;**

Live programming; 74%

Video replays; 22%

Some form of distance learning (CD's, tapes, online, teleconference, etc.); 19% to 27%

**Primary reason for attending CLE not sponsored by TFB;**

Topic/subject matter 65%

For your consideration.

**1/36 of TFB MIGS must report CLER compliance every month (approx. 2000)**

Section sponsors should keep this in mind when rescheduling programs. The CLE calendar is designed to have programs available almost every month. When a program is cancelled or moved to a later date, our members may seek other providers to meet their education needs.

**CLE link on the section web site home page**

A link to the Bar's CLE page will relieve you and your webmaster from having to periodically update your CLE information. It also allows your members the opportunity to register/purchase online.

On behalf of the membership, thanks for your participation.

Mike

Michael A. Tartaglia

Director, Programs Division

The Florida Bar

651 E. Jefferson Street

Tallahassee, FL 32399-2300

850-561-5700

mtartag@flabar.org

III A(2)

**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.

III C 1 (1)



At its June 1 meeting in Key West, The Florida Bar Board of Governors:

- Heard a report from Supreme Court Justice Raoul Cantero, who is chair of the Supreme Court Commission on Professionalism that the commission and Frank Angones are appointing a committee to explore having required mentoring for new Bar members. Cantero said the commission was impressed with a first-in-the-nation mentoring program created by the State Bar of Georgia.

- Approved the recommendations reported by Marc Jimenez, Chair of the Attorney-Client Task Force, including adopting a five-part five legislative position for The Florida Bar stemming from those recommendations. Those recommendations generally oppose any impingement on the attorney-client relationship or work product protections made by government attorneys as part of investigations.

- Heard board members express reservations about the state's new regional conflict counsel plan, including concerns of whether the program, which begins October 1, is adequately funded and will provide effective representation.

- Approved final details for the merger of the Practice Management and Development Section to the General Practice, Solo and Small Firm Section.

- Heard about final details for placing information about lawyers discipline history for the past 10 years on the Bar's Web site.

- Heard details about how lawyers can add information about themselves and their law firm to their bio page on the Bar's Web site, pursuant to a program put in place by the Communications Committee. The committee is also exploring the possibility of letting lawyers report their pro bono service through the Bar Web site, instead of only on the annual Bar dues statement.

- Approved a rule change to clarify that lawyers cannot belong to a private lawyer referral service unless that service follows all Bar rules. Also passed was a new standing board policy to keep judges informed when they make a complaint about a lawyer's conduct to the disciplinary system.

- Rejected a motion to reconsider the board's authorization for the Real Property, Probate and Trust Law Section to oppose changes to a Florida law that limits who can serve as a personal representative for an estate. Still pending at the Legislation Committee is a request from the Out-of-State Practitioners Division for the board to approve as a Bar-wide legislative position the division's position of seeking a change to the law to allow out-of-state Bar members to serve as personal representatives.

III H 1(1)

**MAJOR ACTIONS OF THE FLORIDA BAR BOARD OF GOVERNORS  
2006-2007**

Established a “bright line” rule on using doctor of laws in lawyer advertising, allowing lawyers to use only the terms actually on their diplomas and not allowing translation of that wording into another language.

Approved a joint Bar-judiciary committee to study a way to evaluate the performance of Florida’s judges and communicate those evaluations to the public.

Approved a recommendation that government lawyers be exempted from the new Bar rule requiring all Bar members to designate an inventory attorney pending Supreme Court adoption.

Approved a modification of Ethics Opinion 77-30 which gives more leeway in identifying conflicts with a city or county attorney representing a single commission member in an ethics complaint before the state Ethics Commission. The revised opinion also provides more guidance on when any conflicts may be waived.

Approved a proposal from the Equal Opportunities Law Section and Board of Legal Specialization and Education to include “bias elimination in the legal system” among the five mandatory CLE credits. Currently, Bar members must take five credits in ethics, professionalism, and/or substance abuse training as part of the 30-hour requirement.

Endorsed the three-year cycle rules changes proposed by the Civil Procedure Rules Committee, the Probate Rules Committee, and the Small Claims Rules Committee.

Received a report showing that the recommendations of the Special Commission on Lawyer Regulation have been referred to various board committees for review.

Adopted a position in support of Amendment 3 requiring broader support for amending the Florida Constitution.

Approved the creation of a Florida Registered Paralegal Program Committee for Supreme Court adoption.

Declined to endorse a proposed rule of criminal procedure dealing with closing arguments promulgated to replace a rule the legislature repealed last session. The board voted to withhold its support for proposed criminal rules 3.250 and 3.851 – written by the Criminal Procedure Rules Committee – that would give the prosecution the closing argument in cases where the defense calls only the defendant to testify and no other witnesses. Instead, the board adopted the committee’s minority report as its own. The rule will still be presented to the

Supreme Court as drafted by the committee – but with the board’s objection noted – for final action.

Endorsed amendments offered by the Criminal Procedure Rules Committee to amend Rules 3.131 and 3.132, which concern pretrial release of defendants charge with violent crimes.

Authorized the Public Interest Law Section and the Legal Needs of Children Committee to oppose the indiscriminate use of chains and shackles on juvenile defendants during court proceedings. The board also approved allowing the Legal Needs of Children Committee to advocate for legislation to require all children have a meaningful opportunity to consult with an attorney before waiving the right to counsel in a delinquency proceeding.

Approved a recommendation to join the Supreme Court’s Commission on Professionalism in asking the court to withdraw the commission’s request for a Bar rule change that would allow judges to impose up to a \$500 fine and order attendance at a professionalism course for lawyers who show unprofessional conduct in court.

Renewed several legislative positions from the 2004-06 biennium and adopted two new positions – opposing the indiscriminate shackling of juveniles when they appear in criminal cases and supporting a student loan repayment program for state government and legal aid attorneys.

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 the chief’s 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.

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

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.

Approved a proposal from the Communications Committee to provide an easier way for Bar members to get a password to access secure areas of the Bar’s Web site.

Approved that all future public reprimands be administered in front of the Board of Governors, unless waived by a two-thirds vote of the board.

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 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.

Approved a proposed advertising rule amendment on attorney and law firm Web sites, pending Supreme Court approval. The rule requires the opening, or homepage, of a Web site comply with all advertising rules except that it be submitted for Bar review. Inside pages could also within guidelines use testimonials, references to past results, and statements characterizing the quality of the lawyer or law firm's work.

Approved the Bar's 2007-08 budget, which has no change in Bar members' annual fees and projected revenues of \$36.9 million and expenses of \$36.3 million.

Approved the Communications Committee's proposals for listing Bar members' 10-year disciplinary history on the Bar's Web site.

Approved changes to Rule 4-8.4(i) on sexual conduct with clients. The amendment, which now goes to the Supreme Court, would create a rebuttable presumption that sexual conduct with a client initiated after the start of representation harms the client or the handling of the client's case.

Endorsed several procedural amendments recommended by several rules committees relating to the Supreme Court's request for input on the recommendations from the Committee on Privacy and Court Records. The recommendations dealt with protecting Social Security numbers and other information that could be used to steal a party's identity.

Endorsed a Criminal Procedure Rules Committee recommendation that no changes be made in the rule on speedy trials which the committee had been studying at the request of the Supreme Court.

Nominated three lawyers for each upcoming vacancy on the state's 26 judicial nominating committees. The final appointments will be made by Gov. Charlie Crist.

Heard Attorney General Bill McCollum discuss his office's operations and his two top priorities -- protecting children from Internet-enabled sexual exploitation and combating gang violence.

Received a report from Supreme Court Justice Raoul Cantero, who is chair of the Supreme Court Commission on Professionalism, that the commission and President-elect Frank Angones are appointing a committee to explore having required mentoring for new Bar members.

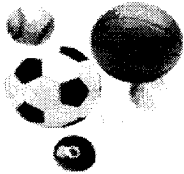
Approved the recommendations of the Attorney-Client Task Force, including adopting a five-part legislative position for The Florida Bar, generally opposing any impingement on the attorney-client relationship or work product protections made by government attorneys as part of investigations.

Discussed reservations about the state's new regional conflict counsel plan, including concerns of whether the program, which begins October 1, is adequately funded and will provide effective representation.

Approved final details for the merger of the Practice Management and Development Section to the General Practice, Solo and Small Firm Section.

Reviewed details on how lawyers can add practice information to their bio page on the Bar's Web site, pursuant to a program put in place by the Communications Committee.

Approved a rule change to clarify that lawyers cannot belong to a private lawyer referral service unless that service follows all Bar rules. Also passed was a new standing board policy to keep judges informed when they make a complaint about a lawyer's conduct to the disciplinary system.



Mike Tartaglia /The Florida Bar

06/01/2007 11:19 AM

To Professional Development@FLABAR

cc

bcc

Subject Fw: The Florida Bar June 1st CLE E-newsletter

Not sure all of you see this monthly newsletter. Administrators, please include a copy in your agenda's for the next available EC meeting. I believe this may be one of the promotion pieces partially responsible for the record year in registrations.

Thanks and have a great weekend.,

Mike

----- Forwarded by Mike Tartaglia/The Florida Bar on 06/01/2007 11:13 AM



FloridaBarCLE@lexisnexis.co

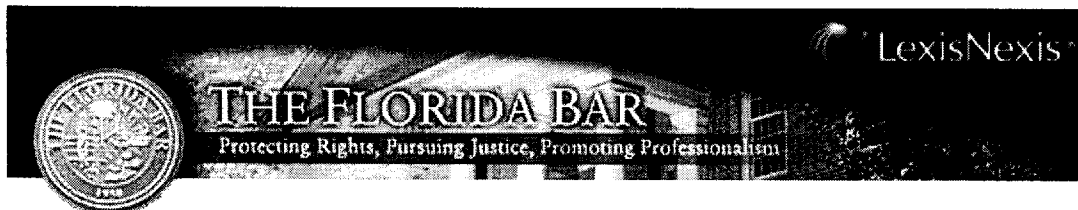
m

06/01/2007 12:34 AM

To <mtartag@flabar.org>

cc

Subject The Florida Bar June 1st CLE E-newsletter



## The Florida Bar CLE e-Newsletter

June 2007

Your source for information about upcoming CLE Seminars and new editions of CLE Publications. Reporting date coming soon? Look for CLE Seminar programs in your area.

### Online CLE Catalog Offerings

For maximum flexibility in obtaining your CLE credits, see our listing of upcoming live webcasts, tele-seminars, tele-web seminars, online on-demand courses, as well as CLEtoGo (downloadable audio) seminars here.

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## Featured Florida CLE Publications

[fasTrain - From Law School to Litigator](#) | [fasTrain - How to Write and Use Jury Instructions in Civil and Criminal Cases](#) | [fasTrain - Legal Writing Manual](#)

**\*\* Buy any two fasTrain titles before June 9th and receive a 25% discount. Enter the code FLFAST at checkout.\*\***

### **fasTrain - From Law School to Litigator, First Edition**

1 volume, Softbound with CD-ROM

The latest addition to The Florida Bar's **fasTrain** series, **From Law School to Litigator** addresses major issues faced by lawyers who may be struggling with the transition from classroom to courtroom. It guides the novice through the all-important resume preparation and job interview; explains the pros and cons of joining a large firm, a small firm, or practicing solo; addresses firm hierarchies, politics, job descriptions, mentorships, and relations; explains how to interview clients, determine acceptable cases, investigate facts, interview witnesses, conduct and respond to discovery, take and defend depositions, and prepare a case for trial - from jury voir dire to presenting the closing argument; provides tactics for successful settlement negotiation and mediation; and teaches how to hone research, writing, and people skills to become a successful litigator. The author reduces each subject to its component parts and instills valuable advice in a concise and direct manner.

An extensive table of contents and practice tips are provided to help the new litigator quickly digest the content, and comprehensive checklists are included to guide the novice as well as serve as a reminder to experienced litigators to ensure that all steps are covered when preparing the case for trial.

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### **fasTrain - How to Write and Use Jury Instructions in Civil and Criminal Cases, Third Edition**

1 volume, Softbound with CD-ROM

This fasTrain (quick training guide), authored by Ralph Artigliere and William Artigliere, outlines the preparation, presentation, and use of jury instructions in Florida civil and criminal jury trials.

This **third edition** has been expanded to cover criminal jury instructions and guides the attorney through preparation of case-specific instructions to form a seamless fit with the standard instructions to be given in the case. It addresses the role of jury instructions in a trial, provides sources of standard and specialized instructions, and teaches how to find and apply the law in the form of jury instructions, including how to present the packet of instructions to the judge and advocate for approval of each instruction. The attorney is advised on how to properly monitor the delivery of the jury instructions to the jury and how to preserve the record on appeal. Preparation and delivery of verdict forms is also included. With this fasTrain the attorney should be able to efficiently and strategically

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