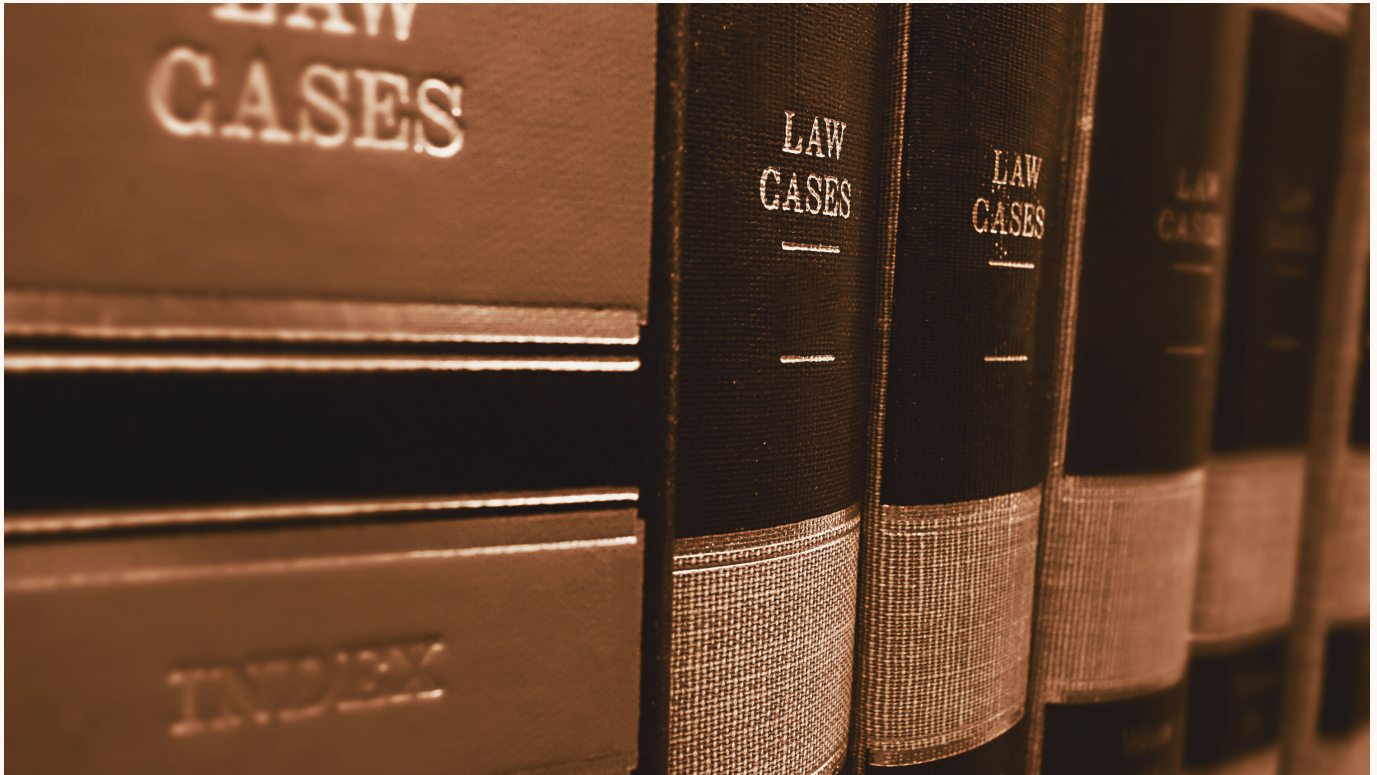


The Bulletin

THE OFFICIAL MONTHLY NEWSLETTER OF THE ADMINISTRATIVE LAW SECTION
OF THE FLORIDA BAR



What's New

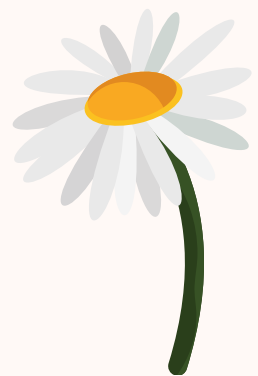
CASE UPDATES
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INSIDE DOAH
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SFGAP UPDATE
.....

WORKING [OUT] AT
HOME
.....

HELLO Spring

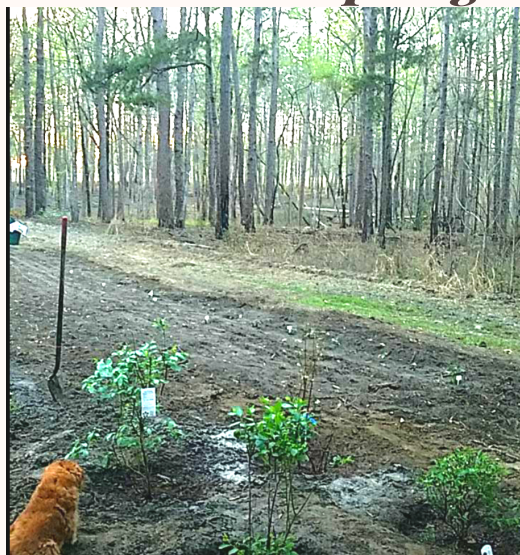


Welcome to Spring!

Tabitha G. Jackson, ALS Secretary

Welcome to Spring! We are excited you have joined us for another edition of the Administrative Law Section's "The Bulletin." We have a few treats in store for you all this month including some insights from DOAH ALJs, fitness advice from our very own Judge Chisenhall, and of course, cute animal photos.

Welcome to Spring!



To celebrate the beginning of Spring, my husband and I started a garden on our property. My Nanny (grandmother) also helps out. She lives on the property a couple acres away. We have planted lots of trees and veggies we hope will yield some delicious treats down the road. From blueberries, pears, and lemons, to tomatoes, peppers, and herbs – this will no doubt be a “fruitful” year!

I have also started to paint again and have taken inspiration from the beautifully colored trees and, of course, our chickens. There is nothing better than sitting outside on my porch and painting on a cool-ish Sunday afternoon in Spring. I call my first piece “Chicken.” This one is not for sale, though if you find yourself yearning for a poultry piece, let me know.

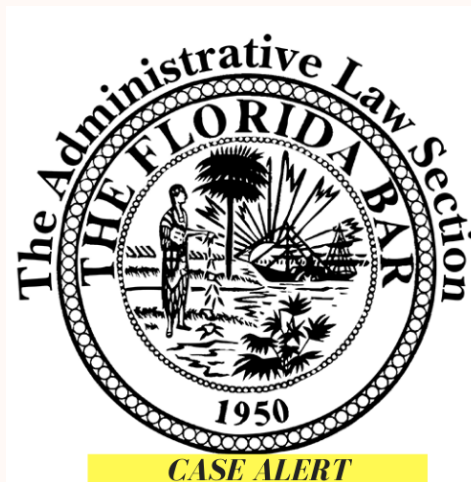
I would be remiss not to include (another) photo of ALS’ mascot “Coco.” She, too, has been enjoying the change in weather and scenery. She’s been known to comment on the azaleas in bloom saying “wow, pink is my fave mom.” The photo below was taken in the shade as she was taking a break from helping out cleaning the chicken coop. Whether it be horse-back riding on the Greenway or boating on the St. Marks River, take the time to relax. We all have hectic lives and can use the break from the daily grind. Take the time to smell the roses, or azaleas, as Coco would say.



Tabitha G. Jackson, Esq.
Luks, Santaniello, Petrillo & Cohen
Secretary, Florida Administrative Law Section

Case Updates

Compiled by the Honorable Gar Chisenhall, ALJ



Dep't of Health v. Louis Del Faveo Orchids, Inc., 1D19-4598 (Fla 1st DCA 2021) -

The majority opinion reversed an ALJ's determination that the Department of Health was not substantially justified in proposing a rule to implement a citrus preference for medical marijuana treatment centers. The dissenting opinion determined that the Department was implementing a policy choice without legislative direction.

Stover, M.D. v. Dep't of Health, 3D20-1646 (3d DCA Feb. 17, 2021)-

The appellate court ruled that the Department's emergency order demonstrated that there was an immediate danger to the public health, safety, or welfare. However, the Court ultimately quashed the emergency order because it failed to provide a sufficient factual foundation to enable the Court to determine whether the restriction imposed on the Petitioner was sufficiently narrowly tailored to be fair under the circumstances.

Job Opportunity

The Florida Department of Management Services is seeking a Senior Attorney in the Office of Special Counsel. For more information on this opportunity, please visit the link:

<https://jobs.myflorida.com/job/TALLAHASSEE-SENIOR-ATTORNEY-72003824-FL-32399/728344800/>

Inside DOAH

Tabitha G. Jackson, ALS Secretary

Recently, I had the opportunity and pleasure to sit down (virtually) and interview the new Chief Judge and the DOAH Management Team. Chief Judge Antonacci and Managing Judges Cohen, McArthur, and Early provided much insight into the inter-workings of DOAH, and I was also able to pick their brains a bit about their personal lives and how they are coping with this “new” way of life during COVID.

DOAH really didn’t skip a beat when COVID hit last year and has been conducting the vast majority of its hearings virtually via Zoom. Judge Cohen was the acting Chief Judge at the time and was adamant that DOAH “keep on trucking,” saying “we were going to keep trying to hear cases and we didn’t want to get to a point where we had 500 unheard cases in the hopper. We never wanted to be in that position and it was really a team effort.”

[Continued on next page]

SFGAP Update

The Administrative Law Section is happy to announce that study materials pertaining to the State and Federal Government Administrative Practice Exam (“SFGAP”) are now available on the Section’s website. Just click on the “Resources” tab and select “SFGAP Certification” from the pulldown menu. As new resources become available, the study materials will be updated.



Chief Judge Pete Antonacci

Judge Antonacci began his legal career in Tallahassee and has returned here after a short stint working in South Florida. His first order of business as Chief Judge was to remove his name and title from his office door. He “wants to be available to everyone here, including practitioners.” A lone pineapple now adorns his office door as a sign to welcome his colleagues and practitioners.

Judge Antonacci and his wife have two grown children. They have a “mini-gym” at home and Judge Antonacci has been “religiously” working out every day. If caloric intake wasn’t a concern, he would indulge in a concoction of bacon, French pastry, and pigs feet. When Judge Cohen suggested that he could still indulge his cravings by exercising on a daily basis, Judge Antonacci responded I “just can’t work off pigs feet like [I] used to.” This interesting dish originated from his family in the “old country,” Bari and Sicily, Italy.

Because the Court continued to hear cases during the pandemic, Judge Antonacci was not met with a back-log of cases. He was able to jump right into his administrative role of handling legislative business and budgetary issues. He believes DOAH has “been treated very well as far as budgets, salaries, benefits, and so on.”

When asked about whether DOAH will continue to use Zoom once things return to normal, the Chief Judge stated that “we aren’t going back to the ways things were. Virtual hearings and virtual legal proceedings will be a major part of the way DOAH adjudicates matters going forward. It will be a feature of adjudication going forward” for all courts.

Judge Antonacci wants the “outside world” to remember that when DOAH issues recommended and final orders, those orders are written thoughtfully with all parties’ positions and arguments taken into consideration. DOAH takes pride in rendering “objective” orders. Impartiality and neutrality are traits the Judges want DOAH to be known by.

The Chief Judge noted that DOAH has contracts with several local governmental entities, and he plans to pursue more such contracts. “We have a heck of a service here and it’s cost effective.”

Judge Gary Early

Gary Early, a double FSU alum, manages the Northern District and has done so since 2016. Judge Early started his legal career at the Department of Environmental Regulation, serving as Assistant General Counsel. That experience has proven to be invaluable as he now regularly hears environmental cases. Judge Early is from Deland, is one of three children, and comes from a military background. His father and brother were in the Air Force. Judge Early and his wife have three grown children.

If Judge Early could be bestowed with a superpower, he would wish for the ability to fly, and his first two destinations would be Colorado and Scotland. His last trip was to Aspen, Colorado in early 2020 (he and his wife's last pre-pandemic trip). He and his wife look forward to traveling once the pandemic begins to lift. He is an avid Miami Dolphins fan, and he and his wife regularly contribute to the St. Jude's Children's Hospital.

Judge Elizabeth McArthur

Judge McArthur manages the Middle District and has been at DOAH since 2010. Judge McArthur is married and has two children. To say she is accomplished is a severe understatement. She graduated #1 in her law class at Florida State University and has more than 28 years of experience in the private sector. She is a former Chair of the Florida Bar's Administrative Law Section ("the Section") and still serves the Section by offering guidance to its many committees.

Prior to COVID, Judge McArthur was an avid attendee at Premiere Health & Fitness, where she enjoyed water aerobics sessions on most days at 7:30AM. When the pandemic hit and the gym shut down, she rediscovered her pool at home and used solo-aerobics to keep fit. When cooler weather prevailed and swimming was no longer an option, Judge McArthur bought new shoes – dancin' shoes! She now enjoys the smart-TV her husband bought for her and does dance aerobics in what she describes as her "barn" outside their home. Judge McArthur and her husband have three German Shepherds, "Beau," "Arya," and "Thorin."

The other ALJs noted that Judge McArthur's son owns two coffee shops in Tallahassee with the second one recently opening in the Midtown section of town. You can check out his shops here through this link: <https://www.argonautcoffee.com/>

Judge Robert "Bob" Cohen

Judge Cohen manages DOAH's Southern District. He earned his law degree from Florida State University and graduated from Brandeis University in Massachusetts with a Bachelor's degree in American Studies. Judge Cohen's attendance at Brandeis may have been a foretelling of his future. While Ollie the Owl is the Brandeis mascot, Brandeis students are known as "judges" because the school's namesake (Louis Brandeis) was a United States Supreme Court Justice.

Judge Cohen enjoys traveling. He and his wife Karen's last trip was to Cost Rica in early 2020. They look forward to traveling again when it is safe to do so.

Karen Asher-Cohen is also an attorney, and they were working under the same roof for the first time at the outset of the pandemic. They were able to set up shop in two separate rooms and conduct their trials, hearings, and other legal business. Judge Cohen said it was "refreshing" to be able to work and live with your spouse of 40+ years without too much angst.

Pre-COVID, Judge Cohen was a regular at Anytime Fitness. He has since maintained his membership, but will delay his return until after the pandemic subsides. In the interim, he has been running outside around the Greenway and Buck Lake areas. His passion for running stems from running track in high school and college. He enjoys taking in his surroundings while running and does not listen to music or e-books. His go-to running shoes are either Nike or Asics.

He and Karen have a beach house and enjoyed their home away from home during the pandemic. As most hearings, trials, and meetings were being conducted virtually, they were able to maintain their workload while enjoying a change of scenery.

Judge Cohen's desired superpower would also be flight. His second "would-be" superpower would be to run like the Flash. His first destination would be to Katz's Deli in NYC to pick up a pastrami and visit his in-laws in New York.

Judge Brian Newman

Since the interview on which this article was based, DOAH's newest Judge Brian Newman (formerly Shareholder with Pennington, P.A. in Tallahassee) was promoted to the newly created position of Executive Director/Deputy Chief Judge. In this new role, Judge Newman will assume all the responsibilities that were previously handled by DOAH's Director of Administration. Judge Newman will continue to hear cases as time allows.

Stay tuned for our next issue, which will feature an in depth article about Judge Newman, his background, and this new position.

FLORIDA LAWYERS HELPLINE: DID YOU KNOW?



According to The Florida Bar's 2019 membership survey,

92%

of respondents report experiencing a great deal of stress or some stress in the practice of law.

According to the Young Lawyers Division survey,



62%

of young lawyers have suffered from anxiety, depression, or a combination of both.



The Florida Lawyers Helpline is a **FREE and CONFIDENTIAL** service benefiting over 90,000 members in good standing.

Members have up to **3 free visits** with a local, licensed mental health professional

Professional counselors are provided through CorpCare Associates, Inc. But this service isn't just for mental health. Other helpline benefits include:

Case managers to find long-term care facilities for family members

+

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Working From [And Out] At Home

The Honorable Gar Chisenhall, ALJ

The purpose of this article is to share some things I learned about building a home gym during the pandemic. As everyone recalls, gyms were shut down for several weeks last year, and many people (including myself) were reluctant to return to exercising in crowded facilities. Therefore, one alternative for weeknight/weekend warriors such as myself was to turn a portion of our living space into a home gym.

This article is based on a few assumptions. First, I assume that you have limited space. In other words, you only have a moderately-sized room or a garage available for your home gym. Second, I assume that your home gym budget is limited. Finally, I assume that you are not a professional athlete or someone capable of competing in the CrossFit Games.

If your home gym is going to be inside of your home rather than a garage, your first step is to buy one or more rubber mats that will protect your floor or carpet from heavy exercise equipment. Otherwise, you are likely to soon see permanent indentations underneath you.

While I am not a fitness industry professional, it seems like no exercise program is complete without a cardiovascular (“cardio”) component. Because Florida does not have the harsh winters experienced by other parts of the country, we can usually get our cardio by walking or running outside. However, there are times when darkness or oppressive heat makes rigorous exercise outside unappealing or even unsafe. That is when a piece of cardio equipment becomes a godsend. Treadmills and ellipticals seem to be the most popular pieces of cardio equipment in commercial gyms, but the nicer ones have the serious disadvantages of being expensive and taking up a lot of space. If you are going to invest a few hundred dollars in a piece of cardio equipment, you might as well purchase something that is: (a) durable with relatively low maintenance; and (b) capable of challenging you as your endurance increases. Therefore, I recommend that you purchase a spin cycle. A quality spin cycle, without any sort of internet connectivity, can be purchased for \$350 to \$550. Moreover, spin cycles have wheels on their frames that enable you to roll them into a corner or into a different room when not in use.

Working Out At Home

I also believe that no exercise program is complete without a strength training component. If you have serious budgetary and/or space constraints, then resistance bands are a great substitute for dumbbells and barbells. In conjunction with an anchor that rests between a door and its frame, some bands enable you to replicate the kinds of exercises one does with commercial gym equipment. Each band provides a different amount of resistance and you just use a different band or add another as you get stronger.

If you have a larger budget and more available space, then you can consider purchasing free weights or a home gym machine. Because I have never used a home gym machine such as a Bowflex, I cannot offer very much insight in how to find the right one for you. However, if you decide to go that route, then I would definitely try to test out a floor model (or a similar one owned by a friend) before spending several hundred dollars on one. Also, because most home gym machines are limited in the number of exercises that can be performed and the resistance levels that can be utilized, they are probably not the best choice for serious strength training athletes.

I had a few dumbbells prior to the pandemic and gradually supplemented my home gym with weight plates, barbells, and more dumbbells. If I had to do it all over again, I would take a hard look at purchasing adjustable dumbbells that allow the user to adjust the weight of an individual dumbbell from a low from 5 pounds to a high of 50 pounds. While adjustable dumbbells tend to be expensive, they save a lot of space.

If you are going to use dumbbells and/or barbells, then a weight bench is essential. A simple flat bench can be purchased for around \$50.00. However, it is preferable to have a multipurpose or adjustable bench that can be set to various incline levels. While that costs more money, it increases your exercise options. If space is an issue, you can buy a multipurpose or adjustable bench that folds in half and can be stored in a closet or under a bed.

Working Out At Home

If you are somewhat of an advanced lifter (or plan to be one in the future), you might want to consider investing in weight plates and a barbell. However, there are a few things you must know before doing so. First of all, barbells come in all sorts of shapes and sizes, but the most common (and the foundation for a home gym) are straight barbells that range in length from 5 to 7 feet long. Secondly, it is very important to remember that there are two basic types of barbells and two basic types of weight plates: standard and Olympic. Standard barbells are one inch in diameter and only use standard weight plates with one-inch holes in the middle. In contrast, Olympic barbells are two inches in diameter and only use Olympic plates with two-inch holes in the middle. Because of the size differentials, standard weight plates cannot be used with an Olympic barbell, and Olympic plates cannot be used with a standard barbell. While standard barbells tend to weigh around 15 pounds, Olympic barbells usually weigh 45 pounds.

Due to the size differential, standard barbells tend to have a maximum capacity of 250 pounds or less. In contrast, Olympic barbells tend to have capacities ranging from 300 to 1,000 pounds. Accordingly, if you are a beginning lifter or someone who does not desire to ever throw around a lot of big weight, then a standard barbell would probably be best for you. However, if there is any possibility that you might graduate beyond a standard barbell, then I would not recommend making a big investment in standard plates. Buy an Olympic barbell and the corresponding plates. Also, if there is any chance that your home gym will go beyond the basics discussed above, most fitness accessories use Olympic as opposed to standard plates.



LEFT: The garage gym or "Pain Cave" of Maria McCorkle, our Bulletin Editor. Maria is a professional pacer and semi-serious triathlete. Her home gym includes a treadmill (rescued from the trash), a Schwinn IC4 spin bike, weights, an old monitor to use with Roku/Zwift, and a box fan. She also has a rack for her medals to motivate her (and yes, she occasionally likes to pretend she can surf!).

Ride and Run with her on Zwift or follow her on Strava: @OhMaria

Coming Next Month!

*Health and Wellness: A Lawyer and Pacer's Perspective.
More From Inside DOAH!*

The ALS Bulletin

*A monthly publication from the Administrative Law
Section of the Florida Bar*

Want to contribute? Have a question?

Email Maria Pecoraro-McCorkle at

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