

The Bulletin

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



What's New

DOAH CHIEF JUDGE

.....

SECTION EVENTS

.....

MEMBERSHIP

SPOTLIGHT

.....

SERVICE REFLECTION

.....

FUN COLUMNS



New Year. New Goals.

By: Mallory Neumann, Esq.

The New Year is often viewed as a fresh start, with many people resolving to accomplish both new and previously unfulfilled goals in the coming year. I am no exception and admittedly view January 1st as my chance to make several resolutions that I know I can't realistically keep. But what I've learned over the years is that I am more successful with accomplishing New Year's resolutions when I first reflect back on the successes of the last year. Remembering the wins of the year gives me the motivation I need to work towards more wins in the new year.

In reflecting on all the great things that the Section has accomplished in the past year, I am filled with a sense of pride for being a part of such a collegial, supportive, and charitable group of professionals. Last year, the Section held several enrichment events for its members, including educational, networking, and charitable events.

Continued, next page.

2022 ALS Recap

Cont.

The Section held numerous CLE programs for its members that provided topical and interesting information such as the DOAH Trial Academy (which had 80 participants in September 2022) and the Agency Open House series, which will be continuing this year. Additionally, many of the programs were free, like the Practice Pointers for the Pros event that was held in July 2022, which covered practicing before DOAH, evidence and witness examination, rule challenges, and administrative appeals, and had the added bonus of 4 SFGAP credits! Networking events last year not only brought Tallahassee members together but also continued to expand engagement with administrative lawyers and students outside of Tallahassee with events in both Central and South Florida. The Section's charitable events benefitted the Kearney Center, the Animal Shelter Foundation, Boys Town of North Florida, Oak Ridge Elementary School students and families, and the Guardian Ad Litem Holiday Toy Shop.

Reflecting on the Section's 2022 wins gives me the motivation to make Section involvement in 2023 not just another resolution on the list, but a priority. I urge you to similarly reflect on what the Section has already offered and can offer you in the future. I also urge you to reflect on what you can offer to the Section, make that a 2023 resolution, and keep it! If I haven't already convinced you to make Section involvement a priority for this year, just take a look at page 8 for a list of upcoming events from the Section and its partner organizations that are already in the works. I hope that you will join me this year in engaging and contributing to the Section to make it even better than it already is!

and

*In the spirit of new beginnings,
Brittany Griffith and I are thrilled to share a few very
important announcements with the Section!*

Administrative Law Sections Welcomes Mr. James Charles Jackson to the world!

Special to The Bulletin

Section Chair, Tabitha Jackson, and her husband, Matt, welcomed their baby boy, James Charles Jackson, to the world on December 12, 2022.

Please join us in congratulating these proud parents on this exciting news!



Section Congratulations to DOAH Chief Judge Brian Newman

Special to The Bulletin

We are also excited to share that the Honorable Brian Newman was formally appointed as the Director and Chief Judge of DOAH by the Cabinet on January 17, 2023. Chief Judge Newman has been a mainstay of the Section over the years. Most notably, he previously served as the Chair of the Section for the 2019-2020 year. He also turned his interest in uplifting new administrative lawyers into reality by creating the DOAH Trial Academy, which many of us have benefitted from. We look forward to seeing all the great things he will accomplish in this new role. Please help us in congratulating Chief Judge Newman on this well-deserved appointment!



Congratulations!

DOAH Update

By the Honorable Brian Newman, Chief Judge, DOAH



DOAH has implemented an Alternative Dispute Resolution (“ADR”) pilot project with the cooperation of the Department of Health (“DOH”). In a participating DOH ADR case, a second Administrative Law Judge is assigned to the case as the “ADR Judge.” A final hearing is set and the case proceeds on the typical procedural course, except that the ADR Judge invites the parties to participate in a settlement conference that the ADR Judge conducts by Zoom video conference well in advance of the final hearing. The Zoom settlement conference is voluntary for all and there is no cost to participate.

If the case is amicably resolved at the Zoom settlement conference, the ADR Judge issues a report so advising the Administrative Law Judge assigned to conduct the final hearing, and jurisdiction of the case is promptly relinquished to the agency. If the parties impasse, the case proceeds to final hearing without delay. The settlement conference is confidential, and the ADR Judge will not discuss the case with the Administrative Law Judge assigned to conduct the final hearing.

If the parties to any non-DOH case referred to DOAH are interested in participating in the ADR project, contact the DOAH clerk, Julie Hunsaker, and let her know you are interested in requesting the assignment of an ADR Judge to help you resolve the case.

Section Congratulations!

Administrative Law Judge Megan Silver Named Executive Director of DOAH



The Honorable Megan Silver has been selected to serve as the Executive Director of DOAH. In this capacity, she will supervise all of the agency's administrative services operations. She will also serve as an administrative law judge when time permits.

Judge Silver is active in the Florida Government Bar Association and the Administrative Law Section of the Florida Bar. She is board certified in administrative law and has appeared before DOAH many times as trial counsel. She frequently lectures on administrative law topics, has authored numerous articles on administrative law, and is the current author of Chapter 2 of Florida Administrative Practice Manual, 14th Ed.

Prior to her hiring at DOAH, Judge Silver worked at the Department of Management Services where she has gained valuable experience on the challenges facing agency management personnel, including state procurement and accounting, information technology, budgeting, real estate management, and human resources.

Stetson Law School Outreach Program Event

**CHICK-FIL-A
LUNCH
PROVIDED
AND
COMPLEMENTARY
SECTION
MEMBERSHIP**

DIVISION OF ADMINISTRATIVE HEARINGS JUDGES PANEL

**MEET ADMINISTRATIVE
LAW JUDGES AND
PRACTITIONERS DURING
A 1 HOUR PANEL**



**2/8/2023
NOON
SEBRING COURTROOM**

PANELISTS:
CHIEF JUDGE BRIAN A. NEWMAN
JUDGE GAR W. CHISENHALL
JUDGE MARY LI CREASY
JUDGE JODI-ANN LIVINGSTONE
ADRIENNE E. VINING
J. TRAVIS GODWIN

MODERATOR: ELIZABETH FERNANDEZ

Register Here



 **SCAN ME**

Upcoming Section Events

Be sure to watch your emails and our social media for information, updates, and more about our Section Events!

@FLABARALS

- **February 8 @ Noon** (*Gulfport - Stetson Law Main Campus*) - Division of Administrative Hearing Judges Panel, Sebring Courtroom
- **February 16 @ Noon** (*Zoom*) - Prosecuting and Defending Licensed Professionals CLE presented by Paul Drake
- **February 28 @ 5:30 PM** (*Tallahassee*) - Speed Networking Event (a joint event with the Florida Government Bar Association), sponsored by Foley & Lardner LLP, FSU Law Rotunda, free parking at the Civic Center
- **March 2, 1:00-5:00** (*Tallahassee*) - Agency Open House at Department of Management Services, informal social event to follow
- **March 7 @ Noon** (*Zoom*) - Rule Challenges Part I CLE presented by Francis Carbone and Brittany Griffith
- **March 23 @ Noon** (*Zoom*) - Rule Challenges Part II CLE presented by Marc Ito and Stefan Grow
- **April 6, 1:00-5:00** (*Tallahassee*) - Agency Open House at Public Employee Relations Commission, informal social event to follow
- **April/May 2023** - Pat Dore Conference, Details forthcoming

SFGAP Board Certification

Get Started Today!

By Gregg Morton, Esq.

The topic of how best to prepare for the State & Federal Government & Administrative Practice (SFGAP) certification test is both difficult to address and frequently discussed. I have talked to different individuals who obtained the SFGAP certification and they all had different amounts and styles of preparation. Some of this preparation is achieved through obtaining the required 50 hours of approved CLEs in the three years that proceed applying for certification. The Administrative Law Section offers a large number of CLEs throughout the year that qualify as well as maintaining a catalog of seminars that are available on demand or as recordings. Other entities like the Florida Government Bar Association offer seminars that qualify for SFGAP credit, including a reasonably priced 2022 series that focused specifically on SFGAP-related topics. Other sections, like Government Lawyer, Labor & Employment, City County & Local Government, and the Environmental Land Use Law Sections also frequently offer SFGAP qualifying credits. Moreover, applicants who have taught, spoken, or written on an administrative law subject, can apply for SFGAP credit for that work by filing the appropriate form with the Bar. In addition to satisfying the CLE requirements, attending these seminars or obtaining alternative credits through speaking and writing will also be helpful when taking the exam.

In addition to the above, my particular method of studying started several months before the test. I utilized the materials that were provided by the Administrative Law Section and which are now available on the Section's website. In addition, for Florida Law, I also relied on the Florida Administrative Practice Manual. This is a valuable resource and should be in the library of anyone who practices administrative law in Florida. For purposes of studying for the test, it was also instrumental on helping to give a basic understanding in areas that I did not have prior experience in, such as bid protests. I relied primarily on Chapters 1 (Administrative Process and Constitutional Principles), 2 (Overview of the Administrative Procedure Act), 3 (Rule Adoption and Review), 4 (Administrative Adjudication), 5 (Proceedings in Which There are No Disputed Issues of Material Fact), 6 (Professional and Occupational Licensing), 11 (Bid Dispute Resolution), 12 (Judicial Review), and 13 (Attorneys' Fees and Cost Awards). For federal law, which makes up a smaller component of the exam and therefore requires less knowledge and study, I relied primarily on Second Edition of A Blackletter Statement of Federal Administrative Law that the ABA publishes.

Although the first reaction may be that pursuing SFGAP board certification is daunting and difficult, I can safely say having undergone the process that it was not as onerous as it first appears. Moreover, in addition to having a credential that distinguishes me from other practitioners, I learned a lot during the process and have found information that I learned from becoming board certified useful on a number of occasions. If you are interested in learning more or pursuing board certification, feel free to contact me or any other member of the Section's SFGAP Committee. We are happy to help you navigate through the process and talk to you about what worked for us.

Executive Council Super Star

Attorney Johnny El Hachem



Where do you work?

Holland & Knight, Miami

What are your practice areas?

Commercial/admin litigation, gaming law, international arbitration, regulatory compliance

Tell us something fun about you.

I studied at three different law schools across three different continents.

Why are you part of the Administrative Law Section?

I worked with the Division of Pari-Mutuel Wagering for about 5 years before moving to private practice and that meant becoming very familiar with the APA, DOAH, rulemaking, administrative complaints, the judges, other practitioners, etc. The Administrative Law Section provides the opportunity to be exposed to these areas through its monthly bulletins, networking events, conferences, the DOAH Trial Academy, and others.

How can people in South Florida become involved with the Section?

As a first step, I recommend joining the Section to receive all news and information about upcoming events. We regularly host events in South Florida and practitioners, students, and interested people should join to learn more about the Section and the work we do. Another way is to collaborate on a CLE topic. In fact, our team is planning a series of CLEs in 2023 and we are constantly looking for topics and speakers. I am always happy and available to chat, meet for coffee, and answer questions.

For additional information, you can reach me at johnny.elhachem@hklaw.com or 786.843.8624.

New Member Spotlight

Welcome

ATTORNEY RYAN ORBE



New Member Fast 5!

1. **Where do you work?** I work for the Department of Corrections in its Office of the General Counsel (OGC).
2. **What are your primary practice areas?** The main areas I handle are: legal review of legislation, legislative implementation, development of the annual regulatory plan, ethics compliance, subpoena document production. So a spectrum of different areas of administrative law work.
3. **Tell us something interesting about you.** I love helping out in the community. I'm currently president of the Tallahassee Bar Association Young Lawyers Section., and I enjoy developing projects geared toward helping young lawyers, law students, and the Tallahassee community. I'm an avid Seminole fan and in the fall you can expect to see me in Doak Campbell stadium.
4. **What do you enjoy about Administrative Law?** I love the team environment, working to effectively and efficiently carry out legislation at an agency level so that the responsibilities of the agency can be faithfully carried out for the people of Florida.
5. **Any pets?** My family back in St. Augustine has a dog Shamrock (Shammy). She's the sweetest dog. My brother named her, I shortened it to Shammy as a nickname.



Adventure Awaits in Leon County

By the Honorable Robert Kilbride, ALJ



There are many fantastic mountain bike trails throughout Leon County. It's a great way to see the outdoors, stay in shape and relieve the stress that frequently plagues all of us who practice law. In this piece and future articles, I'd like to highlight the different types of mountain bike trails that our community offers.

North of town off Meridian Road is one of my favorite trails. Located just behind the Forest Meadows Park and Athletic Center is the Redbug Trail. Take the parking lot to the right, park near the end and check out the map board for the trailhead entrance.

Bring your energy and determination. Redbug is a tight, winding and "rooty" trail in a densely forested area. It's about 5.5 miles long and recommended for intermediate riders. But "intermediate" is a relative term, and it's a bit challenging, so bring your game on when you go!

Regardless, you'll find this "roller coaster" of a trail to be ideal for those seeking a fun and strenuous workout in what feels like a more remote trail. Redbug has several mounds and turns constructed with rocks and boulders that add to the excitement. I can't help but recall my first ride on Redbug which I found to be pretty bumpy and tough, but I have since come to really enjoy the more familiar trail it has become!

The nice thing about Redbug is that directly across Meridian Road is the trail head for the Lake Overstreet series of trails. These trails offer longer, smoother runs which eventually take you around Lake Overstreet. Depending on which trail you take, the run around the lake is just over 5 miles. You probably won't encounter a lot of other riders, so enjoy the peace and quiet as you meander through the woods and around the lake!

I would describe the Lake Overstreet trails as easier and definitely less rooty than Redbug. There are viewing platforms along the trail where you can take a break and enjoy views of the Lake. But, first timers should consult the map at the trail head for guidance!

So strap on your helmet, hop on your bike and take a mountain bike ride!

Pets of the Administrative Law Section

Meet Brandy the Houndbeast!

Meet Brandy the Houndbeast! Brandy is celebrating her 10th Adoptiversary next month. She was a “prison pup” and was trained by inmates at the Taylor Correctional Institution before coming to Tallahassee Animal Services at Tom Brown Park. Section member Kelly Kibbey Smith adopted Brandy and made her a permanent member of the Smith family.



Recipe of the Month

Meatless Monday: Sweet Potato Goat Cheese Appetizer

Contributed by Brittany Dambly, Esq.

Have you ever considered reducing your meat intake? You may not be ready to give it up entirely, but perhaps try once a week? Introducing your Meatless Monday recipe! This newsletter edition has a meatless Monday appetizer perfect for the any holiday or event!



Sweet Potato Rounds

- 3-4 medium sweet potatoes
- 1 tablespoon olive oil
- dash sea salt
- 1 tablespoon sugar
- 1/2 teaspoon cinnamon

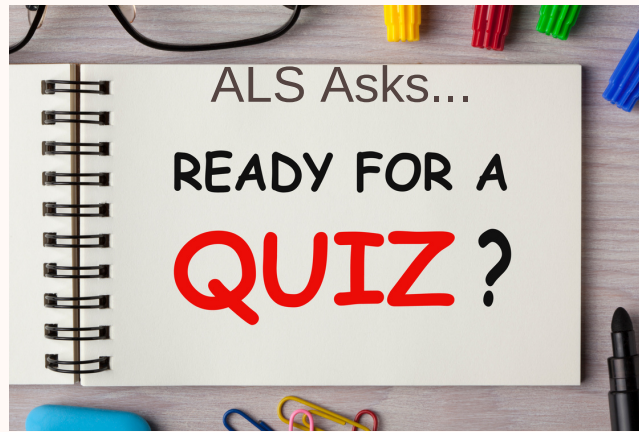
Topping

- 4 oz goat cheese
- 1 tablespoon cream or half and half
- 1 tablespoon honey
- 1/4 cup chopped candied pecans
- 1/4 cup chopped dried cranberries
- 2 tablespoons honey for drizzling

Directions:

- Preheat your oven to 400°
- Add together sugar and cinnamon and set aside
- Peel sweet potatoes and cut into 1/2 " slices
- Using olive oil, brush each side of the sweet potato slices and sprinkle each side with a bit of salt and the sugar cinnamon mixture
- Place all of the sweet potatoes with one side down on a cookie sheet
- Bake for 15 minutes at 400 degrees; remove from the oven, turn over the sweet potato slices and bake for another 15 minutes on the other side (check after 10 minutes to make sure they aren't getting too dark)
- As the sweet potatoes are baking, combine the goat cheese with the cream (or half and half) and honey with a mixer
- Once the sweet potatoes are done cooking, let them cool and add about a teaspoon of goat cheese mixture on a sweet potato slice round.
- Sprinkle the sweet potato slice with pecans and dried cranberries; drizzle with a bit of honey and serve immediately

Recipe courtesy of Cooking on the Front Burner, <https://www.cookingonthefrontburners.com/sweet-potato-rounds-goat-cheese-honey-appetizer/?crlt.pid=camp.9tC7pav3X2il>



Answers on the last page!

1. To whom may an agency disclose a trade secret?

- a) Other parties in litigation
- b) Agency heads of other agencies
- c) Governmental employees whose use of the trade secret is within their scope of duties
- d) No one

2. Under chapter 119, Florida Statutes, when does a bid, proposal, or reply from a competitive solicitation become a public record?

- a) Upon being opened at the public opening
- b) When the agency provides notice of an intended decision
- c) When the agency provides notice of an intended decision or 30 days after opening the bids, proposals, or replies, whichever is earlier.
- d) 12 months after the agency's notice rejecting all bids
- e) Both C and D

3. A party seeking a summary hearing must file a motion requesting such hearing within how many days of the initial order at DOAH?

- a) 15 days
- b) 10 days
- c) 7 days
- d) 5 days

4. Who has rulemaking authority for the uniform rules of procedure under the Administrative Procedure Act?

- a) The Governor
- b) The Administration Commission
- c) The Division of Administrative Hearings
- d) The Department of State

5. What is explicitly prohibited from being the sole cause for a denial of a license under the Administrative Procedure Act?

- a) Drug use
- b) Criminal activity
- c) Lack of professional experience
- d) Being delinquent in student loan payments

A Season of Successful Giving

The Section is proud to have a long record of giving back to the community. The Section and its members closed out the 2022 year in the giving spirit with the Section's 4th annual food packing party to benefit students at Oak Ridge Elementary School and the Florida Public Employees Relations Commission's ("PERC") toiletries drive to benefit children at Capital City Youth Services.

The Section looks forward to carrying the giving spirit into the new year and to seeing the charitable events hosted by its members. Check out these highlights from last year!

4th Annual Food Packing Party - Oak Ridge Elementary School

The Section held its 4th annual food packing party on November 17, 2022. Section members packed bags of food for the Thanksgiving break for 4th grade students at Oak Ridge Elementary School. Section members also delivered the bags to the students and enjoyed meeting them in person. Thank you to the sponsors of the event, Flowers Foods, Ausley McMullen, Luks, Santaniello, Petrillo, Cohen & Peterfriend, and Lexitas (formerly Phipps Reporting).



ALS Gives Back

Florida Public Employees Relations Commission - Capital City Youth Services Supplies Drive

PERC employees donated toiletries and other supplies for individuals receiving services from Capital City Youth Services in Tallahassee on December 16, 2022. Capital City Youth Services is an organization that provides guidance, shelter, and support to youth and families in the Big Bend area.



Thank you

Call for Authors!

One of the strengths of the Administrative Law Section is access to scholarly articles on legal issues faced by administrative law practitioners. The Section is in need of articles for submission to the Florida Bar Journal and the Section's newsletter.

If you are interested in submitting an article for the Florida Bar Journal, please email Lylli Van Whittle at

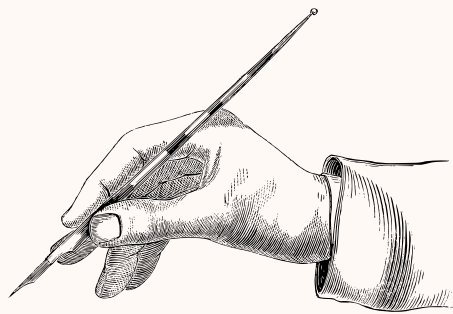
(Lyyli.VanWhittle@perc.myflorida.com),

If you are interested in submitting an article for the Section's newsletter, please email Jowanna N. Oates

(oates.jowanna@leg.state.fl.us).

The next article submission deadline for the newsletter is April 14, 2023.

Write For the Bulletin!



Are you interested in sharing your hobbies, favorite recipes, life updates, or other information with other Administrative Law Section members? The Bulletin team would love to share your content. Submissions welcomed here:

<https://forms.gle/VNchnzuNG9D8d7x88>

Fitness, Administratively Speaking

A column focused on health, wellness, and the joys (and pains) of running.

On a recent Friday afternoon, I received a text message asking me how I was feeling. It was from an acquaintance in the running community, and to be honest, it was odd. This is not the type of person you'd expect to reach out to you without a condition attached. Nonetheless, I responded great, noting that I had been working out again. My last labs came back in great, showing I was moving in the right direction from relapse to remission. Simple enough, right?

The three blinking dots were there, then gone, then there again... leading to the question of "can you pace this Sunday?" Sunday? As in forty-eight hours when I have not run more than a few miles in months and my last half was eight months ago? Notwithstanding that, it was also scheduled to be cold. Very cold, even by "northern" standards. After all, who would run a race in 30°F weather? For three hours? No reasonable, rational person would.

But I am neither reasonable nor rational.

Yes, I responded. I'll pace, but why me? Turns out, a pacer had fallen ill. There aren't many of us who will pace a three hour half marathon because... it's three hours. And it's not a full marathon. So, if they couldn't do it, who would?

Me. That's who.

On Sunday, I woke up early, drove to the race in so many layers, I was actually too warm. I had zero expectations. I was there to do the best I could with what I had, and as the famous song goes, Que sera sera.

We started the race. Just get to one mile on pace, I told myself. At 3.2 miles, it's single digits now. At 6.5 miles, it's only a 10k plus change now. At 10 miles, it's just a 5k. I found a groove every mile, and my normal stress of staying on pace wasn't there. I found peace in my pace.

It's that peace that I found when I began running twenty years ago after surviving an attack. Most of the time, my brain is too focused on pacing to find that peace, but this race? After all the last few months had thrown at me? There was the peace, once again, where it always was, mile after mile.

I crossed at 2:59:39. I had several runners thank me. I felt healthy, and now I'm back to pacing several more races. But unlike last year, there is no pressure I will impose upon myself. That is the great epiphany I have found that I wish to share this edition: find your peace in your fitness. If it's walking, running, mountain biking, swimming, whatever it is that gives you peace, prioritize it.

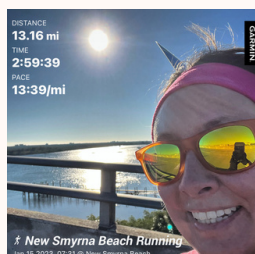
I used to think I was selfish for wanting that peace, but I have since learned it is not selfish. In the way the airline tells you to put your mask on first, you must have your own peace first. If you love to do an activity, if it gives you peace, let this column be the encouragement you need to make time for it, to prioritize it, to seek that peace we often so need in our profession. So, my fitness challenge this month is simple: find that activity that gives you peace, that brings you peace, or facilitates your peace and DO IT.

Until the next run,

Maria

ALS

Runner-in-Chief



The ALS Bulletin

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the Florida Bar*



Pop Quiz Answers

1. C [section 119.0715, F.S.]
2. C [section 119.071(1)(b)2., F.S.; E is not correct because D does not state that the agency has provided notice of its intent to reissue the competitive solicitation as required by section 119.071(1)(b)3., F.S.]
3. A [section 120.574, F.S.]
4. B [section 120.54(5), F.S.]
5. D [section 120.82(4), F.S.]

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