

**EVIDENCE
FOR
ADMINISTRATIVE
LAW
JUDGES**

Pepperdine University
School of Law
Malibu, California

May 20 - 23, 2001

Sponsored by the National Association of Administrative Law Judges (NAALJ), the American Bar Association

Judicial Division, National Conference of Administrative Law Judges (NCALJ), , and the Pepperdine University School of Law.

EVIDENCE FOR ADMINISTRATIVE LAW JUDGES

The National Association of Administrative Law Judges (NAALJ), the American Bar Association Judicial Division, National Conference of Administrative Law Judges (NCALJ), and the Pepperdine University School of Law are proud to present this educational program on evidence in administrative adjudication.

Distinguished, nationally known judges and academicians on the faculty include: Professor Penny J. White, University of Tennessee College of Law and former Justice Supreme Court of Tennessee; Hon. Terry Hatter, Chief Judge, US District Court, Los Angeles; Hon. Edward Toussaint, Chief Judge, MN Court of Appeals; Professor Michael Asimow, U.C.L.A. Los Angeles; Hon. Edwin L. Felter, Jr., Administrative Law Judge, and Chair, National Conference of Administrative Law Judge; Hon. R. Bryan McDaniel, President, National Association of Administrative Law Judges, Administrative Law Judge, Louisiana Division of Administrative Law; Hon. Georgia Brady, Administrative Law Judge, Maryland Office of Administrative Hearings; Hon. Tyrone Butler, Chief Administrative Law Judge, N.Y. Dept of Health; Hon. Bruce T. Cooper, Former ALJ (MD OAH), current Dispute Resolution Provider; Hon. Jean Cooper, Administrative Judge, Board of Contract Appeals, US Dept. of Housing & Urban Development, Immediate Past Chair National Conference of Administrative Law Judges; Hon. Janet Coulter, CA Workers' Compensation Judge; Hon. Kenneth Nickolai, Chief Judge MN Division of Administrative Hearings; Professor Gregory Ogden, Editor, Journal of the National Association of Administrative Law Judges, and Professor of Law, Pepperdine University School of Law; Toni O'Neill, Past President, CA Court Reporter's Association; Hon. Ann Breen-Greco, Administrative Law Judge, Chicago, IL.; Hon. Stephen Hjelt, Presiding ALJ, CA OAH, San Diego, CA; Hon. Chris McNeil, Administrative Hearing Officer, Columbus, Ohio; and Hon. Edward J. Schoenbaum, Administrative Law Judge; Springfield, IL. Hon. Steve Smith, Presiding ALJ, CA. OAH, Sacramento; Hon. Stuart Waxman, ALJ, CA OAH, Los Angeles; Hon. Paul Wyler, Administrative Law Judge, California Unemployment Insurance Appeals Board

NAALJ or NCALJ members \$175 on or before April 15, 2001; \$200 after April 15, 2001
Others \$200 on or before April 15, 2001; \$225 after April 15, 2001

Fee includes: reception, refreshment breaks, one lunch, and all printed materials. Checks should be made out to: Judicial Division ABA, 541 North Fairbanks Court, Chicago, Illinois 60611. (Fill out attached registration form.) The NAALJ and NCALJ are accredited sponsors recognized by many states. This program will be approved for CLE credits. We will assist in obtaining approved continuing legal education credits for your state if you contact us. For program & registration information contact Hon. Edward J. Schoenbaum, Program Coordinator, 1108 South Grand Avenue West, Springfield, Illinois 62704; (217) 524-7836; FAX (217) 524-7824; e-mail:edschoen@juno.com.

Accommodations are available at a variety of motels in Santa Monica and Malibu. When calling for reservations, mention Pepperdine Evidence Program. In addition to the outstanding educational program, there are many nearby attractions, such as Disneyland in Anaheim, Queen Mary and Aquarium in Long Beach, Santa Monica's Pier and 3rd Street Promenade, Universal Studios in Hollywood, Rodeo Drive in Beverly Hills and Venice Beach. There are some excursions when the conference is not in session, including a Saturday night dinner, Sunday morning trip, hopefully to J. Paul Getty Museum, and a hike to the former MASH movie set. For more information, contact Margaret Barfield (310) 456-4653 or Patty Hayes (310) 456-4654.

Because of the limited accommodations, restaurants, etc. in Malibu and the greater availability of hotel rooms, restaurants and attractions in Santa Monica (12 miles south), limited shuttle service is being planned between Malibu and Santa Monica for a small additional charge. If interested, please indicate this on your registration form. Hotel rates vary, but ask the hotels for their "government" or "Pepperdine" rate. They are listed as 3 star hotels and are either at or within walking distance of the shuttle service being planned. It is suggested to first try Radisson Huntley and the Holiday Inn Santa Monica and ask for the Pepperdine rate.

SANTA MONICA:

Radisson Huntley Hotel, 310-394-5454
Holiday Inn Santa Monica Beach, 310-451-0676
Doubletree Guest Suites, 800-222-TREE;
Four Points Sheraton Santa Monica, 310-399-9344
Shangri-La Hotel, 310-394-2791 Hotel Carmel, 310-451-2469
Loews Santa Monica Beach Hotel (4 star), 310-458-6700

PLEASE PHOTOCOPY THIS PAGE AND SHARE WITH COLLEAGUES
EVIDENCE FOR ADMINISTRATIVE LAW JUDGES
May 20-23, 2001
Pepperdine University School of Law
Malibu, California 90263

Name: _____

Address: _____

_____ (City) _____ (State) _____ (zip)

Tel. #: _____ e-mail _____

Title _____ Yes ___ No ___

State Certification Required

Name of Agency: _____

Attorney? ___ yes ___ no ___ Federal ___ State ___ Year Begun _____

Position Is: ___ full time ___ part time ___ contractual

Type of Hearings: _____

Affiliation, ___ NAALJ ___ NCALJ

NAALJ/NCALJ Members (*Join now and save*)

\$175.00 on or before April 15, 2001

\$200.00 after April 15, 2001

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Checks made out to: American Bar Association (Federal ID #36-0723150)

and mailed to: ABA-Judicial Division/ Rosline Jerome

541 North Fairbanks Court

Chicago, Illinois 60611

Questions: E-Mail edschoen@juno.com or 217 524-7836 or FAX 7824.

(Call or write for membership information, too.)

The two most important things I want to learn about applying Rules of Evidence are:

1. _____

2. _____

_____ I made my hotel arrangements at the _____

_____ I would like to use the Shuttle bus from the motel (nominal charge)

_____ I do not need a Hotel

_____ I have a car and would be willing to shuttle some attendees

_____ Signature _____ Date

EVIDENCE FOR ADMINISTRATIVE LAW JUDGES
Pepperdine University School of Law
Malibu, California

Sunday May 20, 2001

12:00 - 3:00 Registration & Coffee

2:30 - 5:00 Ethics for Administrative Law Judges

Professor Gregory Ogden, Editor, *Journal of the National Association of Administrative Law Judges*, Professor, Pepperdine University School of Law
Hon. Janet M. Coulter, Administrative Law Judge, California Workers Compensation Board
Hon. Edwin L. Felter, Jr., Chair, National Conference of Administrative Law Judges, Colorado Division of Administrative Hearings, Denver, Colorado
Hon. R. Bryan McDaniel, President, National Association of Administrative Law Judges, Administrative Law Judge, Baton Rouge, Louisiana
Hon. Chris McNeil, Administrative Hearing Officer, Columbus, Ohio
Hon. Kenneth Nickolai, Chief Administrative Law Judge, Minnesota
Hon. Stuart Waxman, Administrative Law Judge, California Office of Administrative Hearings, Los Angeles
Hon. Paul Wyler, Administrative Law Judge, California Unemployment Insurance Appeals Board

Monday May 21, 2001

8:00 a.m. Registration & Coffee

8:30 a.m. Welcome

Dean Richardson R. Lynn, Dean, Pepperdine University School of Law
Professor Gregory Ogden, Editor, *Journal of the National Association of Administrative Law Judges*, Professor, Pepperdine University School of Law
Hon. R. Bryan McDaniel, President, National Association of Administrative Law Judges, Administrative Law Judge Supervisor, Louisiana Division of Administrative Law; Baton Rouge, Louisiana

Hon. Edwin L. Felter, Jr., Chair, National Conference of Administrative Law Judges, Colorado Division of Administrative Hearings, Denver

8:45 a.m. Overview, Introductions, and Preparing Your Own Benchbook on

Evidence -

Hon. Edward J. Schoenbaum, Chair Education Committees
National Association of Administrative Law Judges
and National Conference of Administrative Law
Judges, Springfield, Illinois

9:20 a.m. The Importance of Evidence in Administrative Proceedings

Hon. Edwin L. Felter, Jr., Chair, National Conference of
Administrative Law Judges, Colorado Division
of Administrative Hearings, Denver, Colorado

9:45 a.m. Break

10:00 a.m. Determining the Reliability of Hearsay Evidence

Professor Penny J. White, University of Tennessee
College of Law, Knoxville, Tennessee

*11:00 a.m. The Changing Role of the Expert Witness in Administrative
Adjudication*

Hon. Stephen E. Hjelt, Presiding Administrative Law Judge,
Office of Administrative Hearings, San Diego,
California

12:00 Lunch (on your own)

*1:30 p.m. Motions in Limine, Taking Judicial Notice, Protective Orders and
Sanctions, Privileges, and Exclusion of Witnesses*

Hon. Jean Cooper, Administrative Judge, Board of Contract
Appeals, U.S. Dept. of Housing & Urban
Development, Immediate Past Chair National
Conference of Administrative Law Judges,
Falls Church, Virginia

*2:30 p.m. Burdens of Proof, Prima Facie Case, Presumptions, and the
Residuum Rule*

Hon. Georgia Brady, Administrative Law Judge, Maryland
Office of Administrative Hearings
Hon. Stephen Smith, Presiding Administrative Law Judge,
Office of Administrative Hearings, Sacramento, CA
Hon. Edward Toussaint, Chief Judge Minnesota Court of
Appeals
Professor Penny J. White, University of Tennessee College
of Law

3:30 p.m. Break

*3:45 p.m. Foundation for Admission of Evidence, Scope and Form of Cross
Examination, Evidentiary Foundation for Hypothetical Questions;
Using Answers to Interrogatories, Depositions, Admissions, and
Stipulations; Allowable Impeachment Methods; Limited*

Admissibility; Offers of Proof; Evidentiary Limits of Rebuttal, and Reopening Record for Additional Evidence.

Hon. Jean Cooper

5:00 p.m. *Dinner on your own*

Tuesday May 22, 2001

8:00 a.m. *Coffee*

8:30 a.m. *Controlling the Admission of Evidence*

Professor Penny J. White

10:15 a.m. *Break*

10:30 a.m. *Making Findings of Fact that Will Withstand Judicial Review*

Professor Penny J. White

12:00

Lunch - The Importance of the Administrative Judiciary
Hon. Terry Hatter, Chief Judge, U.S. District Court,
Los Angeles, California

1:30 p.m. *Credibility Determinations*

Hon. Edwin L. Felter, Jr.

2:30 p.m. *Scope of Judicial Review of Agency Findings of Fact—California and the Rest of the Civilized World - Substantial Evidence, Arbitrariness, and Capriciousness*

Professor Michael Asimow, University of California
Los Angeles

3:30 p.m. *Break*

3:45 p.m. *Unique Questions of Evidence in Administrative Hearings:*

Hon. Ann Breen-Greco, Moderator

Hon. R. Bryan McDaniel, President, National Association of
Administrative Law Judges, Administrative Law Judge,
Louisiana Division of Administrative Law

Hon. Bruce T. Cooper, Former ALJ (MD OAH), current Dispute
Mediation Network, Southern CA

Hon. Janet M. Coulter, Administrative Law Judge, Workers
Compensation Board

Hon. Tyrone Butler, Chief Administrative Law Judge,
N.Y. Dept of Health

Resolution Provi

5:00 p.m. *Reception for California Administrative Judiciary*

7:00 p.m. *Dinner on Your Own*

Wednesday May 23, 2001

8:00 a.m. *Coffee*

8:15 a.m. *Preserving a Complete Record for Judicial Review. Evidence-preserving functions in administrative proceedings, with an appellate court judge offering his view from the reviewing bench and a court reporter offering tips on how to make and preserve the record of the hearing.*

Hon. Chris McNeil, Administrative Hearing Officer, Columbus,
Toni O'Neill, Immediate Past President, California Court
Reporters Association

Hon. Edward Toussaint, Chief Judge Minnesota Court of
Appeals

Ohio

10:45 a.m. *Break*

11:00 a.m. *Recent California Decisions on Evidence in Administrative Adjudication*

Professor Gregory Ogden, Pepperdine University School of Law
Hon. Janet M. Coulter, ALJ, CA Workers Compensation Bd.
Hon. Stuart Waxman, ALJ, CA OAH, Los Angeles, California

12:30 p.m. Presentation of Certificates - Adjournment