ADMINISTRATIVE ADJUDICATION: Keeping Focused in Challenging Times

THIS YEAR'S FEATURED SPEAKERS:

Opening Keynote - Monday, November 14
GARY HING
NEW MEXICO ATTORNEY GENERAL.

Luncheon - Monday, November 14
CHIEF JUSTICE CHARLES DANIELS
NEW MEXICO SUPREME COURT

Closing Keynote - Wednesday, November 16
CELIBA ROY CASTILLO, CHIEF JUDGE
NEW MEXICO COURT OF APPEALS

November 13 - 16, 2011
LaFonda on the Plaza
Santa Fe, NM

WHO SHOULD ATTEND?
- Hearing Officers
- Administrative law Judges
- Attorneys
- Paralegals
- Mediators/Advisors
- Hearings Representatives/Advocates
- Hearing Program Managers
Invitation from the President

It is my pleasure to extend this invitation to you to attend NAHO’s 2011 Annual Professional Development Conference which will be held **November 13-16 in Santa Fe, New Mexico.** The conference site is the enchanting La Fonda on the Plaza, which is located on the historic Plaza in downtown Santa Fe. The Plaza is home to innumerable galleries, museums, boutiques and restaurants, a treasure trove of shopping and unique dining venues. The Palace of the Governors is also located on the Plaza. There you will find Native American art and jewelry displayed by artisans on blankets outside on the portal.

Santa Fe is situated at 7,000 feet in the foothills of the southern Rocky Mountains. It is known as *The City Different*, a name which certainly fits this extraordinary city. It has a long and richly colored history. The site was occupied by Pueblo Indian villages before the Spanish conquistadors arrived and claimed the "Kingdom of New Mexico" for the Spanish crown. Santa Fe was founded between 1607 and 1610, and is the oldest capital city in the country. It is a beautiful blend of earth colored adobe buildings and modern structures, but no skyscrapers to mar the natural beauty of its surroundings or block the view of the spectacular Sangre de Cristo mountains.

Santa Fe is a center for arts and culture. It has nearly 300 galleries and art dealers, making it the third largest art market in the country. There are more than a dozen major museums displaying a diverse array of art, culture, history and traditions. Native American arts, culture and traditions are an integral part of Santa Fe. There are 19 pueblos around the state, including eight Northern Indian Pueblos near Santa Fe.

The conference program is structured to provide an array of educational courses on topics of general administrative law and specialized training. This year’s theme is *"Administrative Adjudication: Keeping Focused in Challenging Times"*. There are a great many challenges we face in our jobs today: budget cuts, layoffs, increased workloads, higher expectations, deadlines, internal and external criticism, new and constantly changing technology. As the pressures mount, it is easy to lose perspective. Now, more than ever, it is important to evaluate our tools and skills and brush up on ones we already have or become educated on those we might be lacking. Here is your opportunity to do so.

The digital age impacts our jobs in new ways, and we have designed the program to include sessions which will explore those impacts. The conference opens on Sunday at 10:00 a.m. with round table discussions which will focus on the effective and appropriate use of various electronic media and the issues related to the use of digital media that can become problematic for hearing officials. A panel discussion on Wednesday will include an overview of the practical and ethical considerations of the use of electronic or digital media, including social media, by administrative hearing officials and will examine and discuss the means by which hearing officials can prevent difficulties from arising by using digital media prudently.

The opening keynote speaker on Monday is New Mexico Attorney General Gary King, who has served in that office since 2006. Chief Justice Charles Daniels of the New Mexico Supreme Court is our luncheon speaker on Monday. His intriguing topic is "Conflicts of Interest and Conflicts with Pistols: An Illustrated History of the New Mexico Territorial Courts." Celia Foy Castillo, Chief Judge of the New Mexico Court of Appeals, will deliver the closing keynote address on Wednesday, "Hearing Officers - On the Front Line." Boy, don’t we know it! Be sure to check out the rest of the faculty and the diverse array of topics. There is something for everyone, whether you are a relatively new hearing official or you have years of experience.

Conference events include the Sunday evening reception which will be held at the beautiful New Mexico History Museum, directly behind the Palace of the Governors. This is a unique opportunity to socialize with your colleagues and to tour the main floor museum gallery. The Tuesday evening banquet will be held on the La Terraza level of the La Fonda Hotel, which overlooks the city and the picturesque St. Francis Cathedral. A Mariachi band will provide entertainment and lend a festive feeling to the event.

New this year is a NAHO certification informational session on Tuesday afternoon for those of you who are in the process of obtaining certification or who are interested in doing so.

November in Santa Fe is a mellow, pleasant time of year. The mountain air is refreshing and the beauty of the landscape is good for the mind and soul. Take a break from the daily routine and pressures, and I think you will find you are able to face the challenges which surround all of us with renewed energy and enhanced skills.

I encourage you to join me, the NAHO board, and your fellow hearing officials for this year's conference. I look forward to seeing you in November.

**BONNY M. FETCH, President**
Conference Hotel

LAFONDA ON THE PLAZA
100 East San Francisco
Santa Fe, New Mexico 87501
Telephone: (505) 982-5511
Toll-free: (800) 523-5002
Fax: (505) 988-2952
www.lafondaontheplaza.com

Making Your Hotel Reservations

The deadline to receive the conference rate for your hotel room is October 13, 2011, at 12 noon Mountain Time.

All conference participants must contact the LaFonda either by on-line reservation located at http://www.lafondasantafe.com/email-group.html or by telephone at (505) 982-5511 or toll-free at (800) 523-5002 to reserve your hotel room. Please reference the conference block name, NAHO Professional Development Conference, to receive the federal per diem rate. You will need to provide a credit card number to guarantee your room. The guaranteed room block is limited, so make your reservations early.

The hotel is extending the attendees of the 2011 Annual Professional Development Conference the 2011 federal per diem. The approved lodging per diem for Santa Fe is currently $100. This amount is subject to change by the General Services Administration, in which case the hotel lodging rate will change. State and local taxes will also be added. All guaranteed reservations require a 48-hour notice (2 days before arrival date) of cancellation or room will be billed to credit card number.

NAHO Membership

If you are interested in joining NAHO for the first time or have been away for a while, now is the time to join! All application forms and dues should be mailed to NAHO Membership, 847 South Dorset Place, Eagle, Idaho 83616. NAHO by-laws require all new regular members to be approved by the membership committee and new associate members to be approved by the Board of Directors at the next regularly scheduled board meeting; therefore, please allow time for processing and consideration in order to qualify for the NAHO member registration rate.

NAHO’s membership period runs from January to December. Dues are $45 per year or $105 for three years for new members or members whose membership lapsed more than twelve (12) months ago. If five or more join from the same organization and pay at the same time, the fee is $40 per year per person. Questions may be directed to Eric Moody, Membership Committee chair, at nahomembership@gmail.com. The membership application is located at www.naho.org/documents/membership.pdf.

Certification

The National Association of Hearing Officials is a professional nonprofit organization formed in 1986 and is the only national professional organization for administrative hearing officials which offers a certification program for hearing officers and administrative law judges.

The NAHO certification program is dedicated to developing uniform standards of excellence and professionalism for hearing officials and administrative law judges across the country. Courses attended at this year’s conference may be counted towards receiving certification for 2011. Core requirements can be met at annual NAHO conferences or other recognized programs addressing the hearing process. For complete information on certification, visit www.naho.org. Individuals seeking certification or recertification recognition at the 2011 conference in Santa Fe should submit complete applications postmarked by September 2, 2011.
2011 Conference Course Descriptions

KEYNOTE SPEAKERS

Gary King  NM Attorney General
New Mexico Attorney General Gary King will be our opening keynote speaker on Monday, November 14, 2011.

Charles Daniels  NM Supreme Court
New Mexico Supreme Court Chief Justice Charles Daniels will be our luncheon speaker on Monday, November 14, 2011. The topic of Chief Justice Daniels’ address will be “Conflicts of Interest and Conflicts with Pistols: An Illustrated History of the New Mexico Territorial Courts.” He will take a look at how a new judicial system was set up in New Mexico in the last days of the Wild West.

Celia Foy Castillo  NM Court of Appeals
Celia Foy Castillo, Chief Judge of the New Mexico Court of Appeals, will be our closing keynote speaker on Wednesday, November 16, 2011. Chief Judge Castillo will address the importance of hearing officers to the administration of justice.

Please note: Every attempt will be made to adhere to the list of short course descriptions below. Should any last minute changes become necessary, your consideration will be appreciated. Designations after the workshop title refer to classification of courses accepted by NAHO for certification of hearing officials and administrative law judges. For complete information on required and elective course credits for certification, see the certification application on the NAHO website, www.naho.org.

A complete listing of speakers and biographies is also available on the website.

Key Code  (M) Mandatory  (E) Elective  (S) Substantive

SUNDAY, NOVEMBER 13, 2011

10:00 a.m. to 10:30 a.m. – Conference Opening – Bonny M. Fetch and Norm Patenaude

10:30 a.m. to Noon – SESSION 1

EXAMINING THE DIGITAL AGE ISSUES OF ADMINISTRATIVE HEARING OFFICIALS
Round Table 1 – Managers of Hearing Officials – Janice Deshais, facilitator
Round Table 2 – Human Services Hearing Officials – Joe Rubenstein, facilitator
Round Table 3 – Other Hearing Officials – Toni Boone, facilitator
These sessions will explore the advantages and disadvantages of administrative adjudication in the digital age, including a discussion of the effective and appropriate use of various electronic media and the issues related to the use of digital media that can become problematic for hearing officials.

MONDAY, NOVEMBER 14, 2011

8:30 a.m. to 9:00 a.m. – Opening Remarks – Bonny M. Fetch, NAHO President, and local welcome speaker

9:00 a.m. to 9:45 a.m. – SESSION 2
New Mexico Attorney General Gary King will present the opening keynote address to the conference assembly.

10:00 a.m. to 11:30 a.m. – SESSION 3

1) HISTORY AND EVOLUTION OF ADMINISTRATIVE LAW (M)
Gregory Ogden, Professor, Pepperdine University School of Law
Discussion of the nature, history, and evolution of American administrative law. Topics will include the history of administrative law in the United States, starting with the early federal agencies (ICC, FTC), the new deal expansion of federal agencies, the adoption of the federal APA, the later expansion of federal agencies in the 1960s and 1970s, and the evolution of state administrative law, including the rise of worker’s compensation agencies, and state pension laws, the adoption of the MSAPA, and the development of state agencies in social welfare fields as a response to federal laws, and money.
2011 Conference Course Descriptions

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MONDAY, NOVEMBER 14, 2011

10:00 a.m. to 11:30 a.m. – SESSION 3 (continued)

(2) CONDUCT AND CONTROL OF ADMINISTRATIVE HEARINGS: MY POWERS ARE BEYOND YOUR COMPREHENSION (M)
Jim Gerl, Attorney, Scotti & Gerl, Lewisburg, West Virginia

This session goes to the very heart of what a hearing officer does. There will be discussion on the following: making a complete record; controlling the proceeding; dealing with witnesses, exhibits, objections; and related topics. The presenter will reveal his Eight Rules for conducting a hearing.

(3) THAT ALL SHALL BE HEARD – THE WHY, WHAT, AND HOW OF WORKING WITH INTERPRETERS (E)
Lisa Dignan, M.Ed., CI and CT; Isabel McSpadden, Ph.D.; Pamela Sanchez, Language Access and Jury Services

Facilitated by the Language Access Services Manager for the New Mexico Administrative Office of the Courts who will be joined by two highly experienced professional interpreters, this workshop will provide answers to the following questions: Why is it important to use certified or otherwise qualified interpreters? Where do I look for qualified interpreters? How are interpreter qualifications established? How does one work effectively with an interpreter, both spoken or signed languages? What is my role in ensuring that all shall be heard?

11:30 a.m. to 1:00 p.m. – LUNCHEON (at LaTerraza)

New Mexico Supreme Court Chief Justice Charles Daniels will be our luncheon speaker. Chief Justice Daniels will take a look at how a new judicial system was set up in New Mexico in the last days of the Wild West in his address titled, “Conflicts of Interest and Conflicts with Pistols: An Illustrated History of the New Mexico Territorial Courts.”

1:00 p.m. to 2:30 p.m. – SESSION 4

(1) EXAMINING JUDICIAL DEMEANOR AND TEMPERAMENT: YOUR OWN! (E)
Laurence H. Geller, Retired Presiding Administrative Law Judge, CA Department of Social Services; and Peter Hemenway, Retired Administrative Law Judge, CA Department of Social Services

As hearing officials we get to judge others. When we make the decision, the demeanor and temperament of the parties may affect us and the decisions we make both at the hearing and in the written decision. But what if the parties to the hearing could judge us—on our demeanor and temperament? Would they say they were denied the right to be heard, or did not have a “fair” hearing because of what and how the hearing official related to them via his/her demeanor and temperament?

(2) EVIDENCE BASICS FOR HEARING OFFICIALS (M)
Gregory Ogden, Professor, Pepperdine University School of Law

Basic principles of evidence for hearing officials will be discussed including the following topics: Admissibility of evidence, hearsay rule, exceptions, and legal residuum rule; privileges, including self-incrimination, and attorney-client privilege; burdens of proof; prima facie case, presumptions, and reliability; foundation, authentication, and judicial notice; impeachment, prior inconsistent statements, and character for truthfulness; making a record, fact finding and standards for judicial review.

(3) MOTOR VEHICLE LICENSE HEARINGS (S)
Monica Ontiveros, Chief Hearing Officer, New Mexico Department of Motor Vehicles

TUESDAY, NOVEMBER 15, 2011

8:30 a.m. to 10:00 a.m. – SESSION 5

(1) JUDICIAL ETHICS FOR HEARING OFFICIALS (M)
Gregory Ogden, Professor, Pepperdine University School of Law

Discussion will include core ethical principles such as impartiality and neutrality in decision-making; typical ethical issues common to all adjudicators – conflicting financial interests, honesty and integrity, pro se litigants, reasonable doubts about impartiality, bias and prejudice, and courtroom behavior; judicial ethics specific to hearing officials, including separation of functions, ex parte communications, and influence in the decisional process. Each subject is discussed with hypotheticals from real world situations. Course includes extensive materials prepared in advance, and provided to participants as part of the course materials.
2011 Conference Course Descriptions

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**TUESDAY, NOVEMBER 15, 2011**

8:30 a.m. to 10:00 a.m. – SESSION 5 (continued)

(2) **DEALING WITH DIFFICULT LAWYERS AND PRO SE PARTIES: H.O. FLEW OVER THE CUCKOO’S NEST (E)**

Jim Gerl, Attorney, Scotti & Gerl, Lewisburg, West Virginia

What tools can a hearing officer use to deal with difficult lawyers and disruptive parties? This session will discuss the need for proper decorum and will provide techniques for dealing with contumacious counsel and out-of-control pro se parties.

(3) **LEGAL RESEARCH – AN INTRODUCTION (M)**

Anthony J. Baratta, Associate Chief Administrative Judge, Atomic Safety and Licensing Board Panel, Washington, DC

The purpose of legal research is to find “authority” that will aid in finding a solution to a legal problem. In this seminar we’ll provide an outline of the process, define certain terminology, identify the principle sources of case law and do a demonstration of how to perform legal research using Westlaw online.

10:30 a.m. to 12:00 noon – SESSION 6

(1) **INDEPENDENCE, IMPARTIALITY, AND INTEGRITY: THE THREE CRUCIAL “I” WORDS THAT DEFINE US AS HEARING OFFICIALS (PART I) (E)**

Laurence H. Geller, Retired Presiding Administrative Law Judge, CA Department of Social Services; and Peter Hemenway, Retired Administrative Law Judge, CA Department of Social Services

Judging is hard. It can be particularly difficult to maintain your independence AND INTEGRITY when your paycheck comes from the agency for which you hear cases, or when your supervisor disagrees with how you conduct the hearing or write your decision, or when your peers are following orders, and you are not. The first part of this class will examine how to recognize the pressures which affect you, and discuss how the hearing official can remain independent and preserve his/her integrity despite those pressures.

(2) **HANDLING AND ADMISSIBILITY OF SCIENTIFIC, TECHNICAL, AND ELECTRONIC EVIDENCE (E)**

Anthony J. Baratta, Associate Chief Administrative Judge, Atomic Safety and Licensing Board Panel, Washington, DC

Scientific testimony is often used in complex cases to support a party’s position. This session will look at general admissibility using the Daubert and Frye standards. Particular emphasis will be placed on handling expert testimony involving complex computer calculations using proprietary software and methods. Included will be a discussion of when motions to compel might be appropriate as well as approaches to be used when examining scientific evidence.

(3) **ONE CITY’S EXPERIENCE WITH ESTABLISHMENT OF AN INDEPENDENT HEARINGS OFFICE (E)**

Panel – Roberto Albertorio, Stan Harada, Anita Reina

This session will focus on the establishment of an independent administrative hearings process in the city of Albuquerque, the review of the manner in which the hearings are conducted, public reaction to the office, and case studies.

1:30 p.m. to 3:00 p.m. – SESSION 7

(1) **INDEPENDENCE, IMPARTIALITY, AND INTEGRITY: THE THREE CRUCIAL “I” WORDS THAT DEFINE US AS HEARING OFFICIALS (PART II) (E)**

Laurence H. Geller, Retired Presiding Administrative Law Judge, CA Department of Social Services; and Peter Hemenway, Retired Administrative Law Judge, CA Department of Social Services

In the second part of the class we will see if we can recognize our own biases, see how those biases affect the way we conduct our hearings and write our decisions, and try to find ways to minimize those biases so that we can be truly impartial, not only in our own eyes but in the eyes of those who appear before us or who review our work.

(2) **A NUTS AND BOLTS LOOK AT DUE PROCESS (M)**

Jim Gerl, Attorney, Scotti & Gerl, Lewisburg, West Virginia

What exactly does “due process of law” mean in terms of the work that a hearing officer does? This will not be an academic or law school style review of court precedent. Instead, we will examine what due process is and what it should look like in our hearings.
2011 Conference Course Descriptions

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TUESDAY, NOVEMBER 15, 2011

1:30 p.m. to 3:00 p.m. – SESSION 7 (continued)

(3) NAHO CERTIFICATION INFORMATIONAL SESSION
NAHO Certification Committee, Ramona Collingsworth, Chair
Candidates or others interested in pursuing NAHO certification meet with Certification Committee.

3:15 p.m. to 4:30 p.m. – NAHO Membership Meeting

6:00 p.m. – Banquet (at the LaTerraza level of the LaFonda)

WEDNESDAY, NOVEMBER 16, 2011

8:30 a.m. to 10:00 a.m. – SESSION 8

(1) OVERVIEW OF ENVIRONMENTAL LAW (S)
Anthony J. Baratta, Associate Chief Administrative Judge, Atomic Safety and Licensing Board Panel, Washington, DC
West’s Law Dictionary defines environmental law as an amalgam of state and federal statutes, regulations, and common-law principles covering air pollution, water pollution, hazardous waste, the wilderness, and endangered wildlife. Impacting virtually every aspect of our lives, environmental litigation revolves around six doctrines: nuisance, trespass, negligence, strict liability, prior appropriation, and riparian rights.

This session will provide an overview of these principles and examine some of the governing statutes. It will also discuss some of the trends in dealing with environmental law through other than adjudicatory processes.

(2) WHAT WERE YOU THINKING? USE AND ABUSE OF SOCIAL AND OTHER DIGITAL MEDIA BY HEARING OFFICIALS (E)
Panel – Bonny M. Fetch, Janice Deshais, Joe Rubenstein, Toni Boone
This session will provide an assessment of the use of electronic or digital media, including social media, by administrative hearing officials. The session will include an overview of the practical and ethical considerations of the use of this type of media. It will also examine and discuss the means by which administrative adjudicators can prevent difficulties from arising by using digital media prudently.

(3) MAKING YOU #1 NOW! (E)
Laurence H. Geller, Retired Presiding Administrative Law Judge, CA Department of Social Services
Are you too busy to find time to take care of your needs? If your life seems like it is out of control because of too many stresses such as work, family, money, etc., take this 90 minute break and begin the journey to get it back. Or you can choose to do nothing and let life pass you by.

10:15 a.m. to 11:15 a.m. – SESSION 9
Celia Foy Castillo, Chief Judge of the New Mexico Court of Appeals, will be our closing keynote speaker. Chief Judge Castillo will speak about the importance of hearing officers to the administration of justice.

11:15 a.m. – Conference Closing – Bonny M. Fetch and Norm Patenaude

See You at the Conference!

NEW MEXICO STATE QUARTER

According to the United States Mint, the New Mexico quarter was the 47th coin in the United States Mint’s 50 State Quarters Program. New Mexico, nicknamed the “Land of Enchantment,” was admitted into the Union on January 6, 1912, becoming our nation’s 47th state. The reverse of New Mexico’s quarter features a Zia sun symbol over a topographical outline of the State with the inscription “Land of Enchantment.” The coin also bears the inscriptions “New Mexico” and “1912.”

NEW MEXICO STATE FLOWER

The yucca was adopted as the State Flower on March 14, 1927. The yucca is a member of the lily family and a symbol of sturdiness as well as beauty. In the early summer, pale ivory flowers bloom at the tips of its long, fibrous stalks. At the base of the plant are broad, sharpedged leaves that look like stilletos. The yucca sometimes grows to the height of a small tree.
HOW TO REGISTER FOR NAHO 2011 PROFESSIONAL DEVELOPMENT CONFERENCE

To register for the conference, visit the NAHO conference website at www.naho.org. To register via US mail, please print the form and accompanying payment to NAHO Conference, PO Box 4999, Midlothian, VA 23112. For assistance, call Frances at (701) 328-3268.

FULL CONFERENCE REGISTRATION FEES
$410.00 Full conference registration for NAHO member
$450.00 Full conference registration for non-member
$385.00 Full conference registration for NAHO member from New Mexico
$425.00 Full conference registration for non-member attendee from New Mexico
$385.00 Group of 5 or more from one employer if registered and paid at the same time. **Groups of five (5) or more registering and paying at the same time must be entered on-line.** Please notify the registrar at fzuther@nd.gov if you are planning to register a group of five (5) or more by this method.

Full conference registration fee includes the welcome reception at the New Mexico History Museum on Sunday, November 13, 2011; the luncheon on Monday, November 14, 2011; and the banquet on Tuesday, November 15, 2011. You may also bring a guest at the rates noted below.

PARTIAL CONFERENCE REGISTRATION RATES
$100.00 Partial registration – one session
$200.00 Partial registration – one day

Partial conference registration fee does not include the reception, luncheon, or banquet. You and your guest(s) are invited to join us at the guest rate at any of the events (in addition to the registration fee).

GUEST MEAL FEES
$40.00 Reception – Sunday, November 13, 2011
$25.00 Luncheon – Monday, November 14, 2011
$45.00 Banquet – Tuesday, November 15, 2011

CANCELLATION POLICY

To receive a full refund, a request must be received on or before 5 p.m. CT, October 28, 2011, and sent by email to fzuther@nd.gov. A cancellation fee of $75 will be deducted from your refund for cancellations made between October 29 and November 4, 2011. NO REFUNDS WILL BE GIVEN AFTER NOVEMBER 4, 2011. Registration fees are transferable, one time only. (The fee may be transferred to another registrant to attend the 2011 conference, or the fee may be applied to the cost of the registration fee to attend the 2012 conference. In no case may a registration fee be transferred beyond one year.)

Important Dates

To Remember

**Deadline for Application To Receive Your Certification at the 2011 Conference**
September 2, 2011

**Scholarship Application Deadline**
September 9, 2011

**Hotel Registration Deadline**
October 13, 2011 @ 12 noon MT

**Conference Registration Deadline**
October 28, 2011