

The Government Lawyer Section R E P O R T E R

“No Higher Calling”

Winter 2007

Chair’s Message:

Certification: It’s No Longer a Dream

By Joseph C. Mellichamp, III

I’m proud to report this quarter that there is a new Government Lawyer Certification. The new certification is called State and Federal Government and Administrative Practice Certification.

State and federal government and administrative practice is the practice of law on behalf of public or private clients on matters including but not limited to rulemaking or adjudication associated with state or federal government entity actions such as contracts, licenses, orders, permits, policies, or rules. State and federal government and administrative practice also includes appearing before or presiding as an administrative law judge, arbitrator, hearing officer, or member of an administrative tribunal or panel over a dispute involving an administrative or government action.

If you wish to apply for certification, applications must be post-marked by February 28. Visit The Florida Bar website, www.floridabar.org/certification for an application and general information. The examination will be given on October 1, 2007, in Tallahassee and one additional city TBA. You may contact the certification staff liaison Alexzina (Zina) Jackson, at ajackson@flabar.org or 850/561-5768, regarding eligibility, certification hours, or exam information.

The Government Lawyer Section Committee on Certification worked hard over the past year to bring this certification to fruition. The section

has members willing to work for your benefit and you should be willing to assist the section in realizing one of the main goals of 2007, growing the section. If every member, that’s you, would talk to just one other person about joining, the section could double in size. Non-members will benefit from the work of the section. You can refer to these efforts as a reason to

spend \$30 to be a member of a growing bar section.

Joining is easy. Visit the Government Lawyer Section page on the bar’s web site for an application, or contact the program administrator, Arlee J. Colman, directly at acolman@flabar.org or 850/561-5625 to receive the application. Do your part this year. We’ve done ours.

USERRA Follow-Up

By Keith W. Rizzardi

Through the Uniformed Services Employment and Re-employment Rights Act (USERRA), 38 U.S.C. §§4301-4334, Congress sought to protect the civilian careers of service members in the United States Armed Forces when they are called to duty. As explained in the previous issue of the Government Lawyer Section Newsletter, with the ongoing military efforts in Iraq, agencies should be aware of their USERRA obligations, especially the duty to re-employ the returning service member in the job that the person would have attained had they not been absent for military service (based on the “escalator principle”). This article follows-up on the previous description of USERRA’s rights and obligations, discussing how USERRA is implemented, and referring the reader to additional resources.

Whenever questions on USERRA arise, employers, service members and other parties can turn to a Department of Defense organization known as Employer Support of the Guard and Reserve (ESGR). Dozens of USERRA resources are posted on the ESGR website, www.esgr.org, and ESGR also has a toll-free call center, 1-800-336-4590. Callers will be referred to ESGR’s local ombudsmen, who provide informal education and mediation services, and who often help resolve the concerns of civilian employers and their employees who are also service members.

Human resources officers, attorneys and other people seeking more detailed USERRA information frequently turn to the recently adopted Department of Labor (DOL) USERRA Regulations. Through the Final Rules on the Uniformed Services Employment and Re-

continued, next page



THE GOVERNMENT LAWYER SECTION REPORTER

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Statements or expressions of opinion or comments appearing herein are those of the editor and contributors and not of The Florida Bar or the Section.

**ARTICLES FOR THE
NEXT ISSUE ARE DUE
April 15, 2007.**

Articles formatted in Word Perfect 5.0 or 6.0 or Microsoft Word may be submitted on computer disc with hard copy attached (or e-mailed to acolman@flabar.org). Please contact Arlee Colman at 850/561-5625.

USERRA

from preceding page

employment Rights Act of 1994, codified in 20 C.F.R. Part 1002, DOL provided further explanation and clarification of USERRA, in a very readable question and answer format. The notice of the rules, published in 70 Fed. Reg. 75245-75313 (December 19, 2005), provides some guidance on the regulations.

In addition, DOL plays a direct role in USERRA implementation and enforcement, through DOL's Veterans' Employment & Training Service (DOL-VETS). The DOL-VETS staff can formally investigate USERRA complaints. During the period from February 8, 2005 to September 30, 2007, pursuant to a demonstration project established by the Veterans Benefits Improvement Act of 2004 (VBIA), P.L. 108-454 (December 10,

2004), the United States Office of Special Counsel (OSC), rather than DOL-VETS, will have authority to investigate federal sector USERRA claims brought by persons whose social security number ends in an odd-numbered digit. The U.S. Office of Special Counsel (OSC) will also directly receive and investigate certain federal sector USERRA claims.

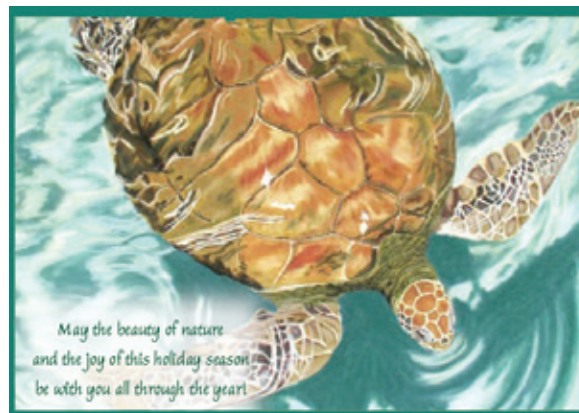
Finally, service members seeking to enforce USERRA rights always have the option to retain private counsel, who can pursue civil litigation. If the service member prevails, courts may award reasonable attorney fees, expert witness fees, and other litigation expenses.

Keith W. Rizzardi is a past Chair of the Government Lawyer Section, and the Ombudsman Coordinator for the Maryland Committee for Employer Support of the Guard and Reserve.

GLS Administrator's Art is On Your Desk!

If you've received your 2006 Bar Directory you've seen the artwork of our section administrator, Arlee J. Colman. Arlee's painting of a sea turtle was selected for the cover.

"It's been an exciting year," says Arlee. "First the Florida Wildlife Federation picked one of my sea turtle paintings as their 2006 Christmas Card. Shortly after that, The Florida Bar asked for a cover painting. It has definitely been the year of the turtles!"



A sea turtle painting by Section administrator, Arlee Colman, was chosen by the Florida Wildlife Federation for their 2006 holiday greeting card.

When not painting, Arlee's spare time is spent managing her web page and selling reproductions online, but she has no plans to leave the bar.

"I meet so many great people in my work with the sections. I think working for the Bar is the reason I have been so successful with my artwork."

Next time you're at a seminar and Arlee's handling the registration table, ask to see what new drawing she's working on. There will always be one close by.

View more of Arlee's work at her web page: www.ArtByArlee.com.

Two Certification Committee Members Call For Help: You Can Shape the Emerging State and Federal Government and Administrative Practice Certification

By George Waas and Keith Rizzardi

The State and Federal Government and Administrative Practice (SFGAP) certification program is taking shape. But the nine members of the appointed committee cannot develop this new program entirely by themselves. It is now time for the Section membership – this means you! – to become actively involved.

For those of you with qualified legal experience, one of the first things you can do is... apply! The application form is expected to be available within the next month or so, and for those you with more than 20 years of experience, who may be exempt from the examination, certification in the field could come as soon as Summer 2007.

For the rest of The Florida Bar members, the SFGAP certification committee is working on an examination. While the committee members will ultimately be responsible for the list of examination topics and test questions, to ensure that the exam tests appropriate materials, experienced lawyers and Section members are urged to provide their ideas, and even sample test questions. (Special thanks to those of you who already have!)

In addition, the nine-member certification committee is poised to adopt policies that will govern the application process, the substantial involvement and practical experience requirements, the peer review process, and CLE requirements. These requirements represent yet another opportunity for you, the Government Lawyer Section members, to participate in the development of the SFGAP certification. In particular, Section members are needed to develop new advanced level courses (including an "exam prep" CLE), to draft CLE lecture materials, and eventually, to speak at CLE programs.

This Section represents a wide range of expertise of direct relevance

to the SFGAP Certification. So, if you, or your colleagues, have special expertise in topics such as civil rights litigation, contracts, constitutional law, ethics, the Federal or Florida Administrative Procedure(s) Act, Government-in-the-Sunshine, government torts, public records, statutory challenges, or other relevant areas of federal and state administrative practice, please contact Keith Rizzardi, keith.rizzardi@usdoj.gov or

George Waas, George_Waas@oag.state.fl.us. Furthermore, if you have ideas or interest in CLE programming, please contact Joe Mellichamp, jcm.levylaw@comcast.net.

As a member of this Section, you have demonstrated a commitment to the work of government lawyers. You are now asked to further that commitment by participating in your certification program. It's success depends on you.

Government Lawyer Section 2007 Calendar of Events

The Florida Bar Midyear Meeting

January 19, 2007

Hyatt Regency, Miami

Practicing Before the Legislature

February 2, 2007, Capitol, Tallahassee

Government in the Sunshine

April 15, 2007, Tampa Airport Marriott

Practicing Before The Supreme Court

June 8, 2007, Supreme Court Tallahassee

The Florida Bar Annual Meeting

June 29, 2007, Marriott World Center Orlando

Proportionate Fair Share

Prepared by David A. Hallman

Transportation concurrency management is the process whereby a local government ensures that roadways have capacity to support approved development. Local transportation concurrency management is centrally overseen by the Florida Department of Community Affairs ("DCA"), which agency has authority over comprehensive planning to ensure that local government planning is consistent with statutory requirements.

For twenty years the law has included a requirement for local governments to plan how they will pay for needed roadways. In 2005, the Florida Legislature put in place a series of measures to bolster state authority to enforce concurrency management requirements. It is apparent that a major legislative purpose of Senate Bill 360 (2005) was to give DCA greater authority to make local governments provide a financially feasible plan for building those improvements and for doing the budgeting of local dollars to make transportation concurrency a reality. This same 2005 legislation provided developers with a "pay-and-go" option, i.e., transportation proportionate fair share ("proportionate share"). It is critical to an understanding of these measures to start from a recognition that proportionate fair share did not abolish local responsibility to ensure that there is a local plan for creating infrastructure concurrently with the approval of development.

To appreciate how transportation proportionate share fits into the overall scheme of concurrency management, it is necessary to understand a few basic concepts. First, when a developer gets a development order from a local government, he is vested for his rights to place traffic on the identified roadways adjacent to his development project. In this context, "vested trips" usually are considered property rights, not subject to being negatively affected without some form of consideration.

Second, by statutory definition, proportionate share contributions from developers can only be collected by local governments when existing

available roadway capacity is insufficient to permit the development project being approved. Proportionate share for a particular development project is just that: the development project's fair share of the cost of a planned roadway construction project that will result in an increased ability of the roadway to carry traffic. The classic example is the addition of lanes to a road that results in the road's ability to carry more cars. So, before a proportionate share can be calculated, someone has to have conceived of a roadway construction project that will create additional capacity, and that person must have also calculated how much the overall roadway construction project will cost.

Third, implicit in the acceptance of any particular proportionate share contribution is the legal responsibility of the local government to make sure that the envisioned roadway construction project will be built. When a local government accepts a proportionate share contribution on a roadway construction project, the local government is required by law to add that roadway construction project to its updated Schedule of Projects in the Capital Improvements Element ("CIE") of its Comprehensive Plan, and must do so not later than the next annual update.

Because a local government's CIE is part of its comprehensive plan, an amendment to the CIE is an amendment to the comprehensive plan, which requires a properly noticed public hearing. It is, therefore, critical that as a local government conducts development project reviews and approvals, local officials understand that the contribution they are proposing to accept, once agreed to, will obligate the local government to construct the underlying roadway construction project. Questions about the magnitude of the roadway construction project, assumptions about its overall cost, funding sources, timing, and priority are only some of the significant issues which must be considered by local government officials.

An important due process is-

sue brought up by proportionate share based development approval is whether there must be a public hearing about adding the underlying roadway construction project before the hearing on the individual development project approval (the latter of which would contain the proposed proportionate share contribution). If the CIE amendment hearing is conducted before the development/proportionate share approval hearing, the local government, in accepting a proportionate share contribution is adding that contribution to a thought-out plan in which the local government has previously decided to build a particular roadway construction project, which construction project is then added to its Schedule of Projects and CIE. However, the statute appears to permit the development approval hearing and proportionate share acceptance to happen before the underlying roadway construction project is added to the local government CIE. If so, there is the risk that at a future public hearing the local government may not add the roadway to its CIE or that the DCA may find the amendment not in compliance. This could result in a legally inconsistent outcomes: The local government, in accepting the proportionate share and adding traffic to a below-level-of-service-roadway segment, implicitly agreed to add the roadway project to its CIE, but in fact, later failed to do so.

Additionally, such a cart-before-the-horse procedure might invite a legal action predicated upon a claim that the public's right to due process has been denied. Such a legal action might allege that the public's right to input on the merits of adding a particular roadway construction project to the CIE were thwarted when the local government obligated itself to add the project to the CIE, regardless of the outcome of a future public hearing.

The Legislature has required that before a local government can accept proportionate share contributions on the portions of the state highway

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FAIR SHARE

from preceding page

system that are part of the Strategic Intermodal System ("SIS"), the local government must have the concurrence of the Florida Department of Transportation ["FDOT"]. This requirement makes obvious sense if we remember what local government is doing: Only approving development for which there is a concurrent plan to accommodate the increased traffic which that development project will create. Since local government cannot unilaterally construct or modify state highways, it follows logically that FDOT concurrence, at a minimum, means that FDOT must sign onto any plan for modification/improvement of the state highway system. Although the statute does not define the term "concurrence," if we remember what local governments are required to do by this statutory scheme, i.e., ensure there will be roads to concurrently accommodate the additional traffic created by development approvals,

then FDOT concurrence means, at a minimum, that there is a plan, agreed to between the local government and this state agency as to the nature and timing of a proposed improvement and the sufficiency of the proposed proportionate share payment.

The Legislature was explicit about its expectations in the context of the first five years of a local government's CIE and where the roadways involved are county roads. In simple terms, local governments must clearly set out how they will pay for planned improvements. Where proportionate share payments are the basis for a local government's conclusion that a roadway construction project is financially feasible, the local government must have in hand a binding development agreement for that payment.

The legislation also provides a "safe harbor" for a local government which adds a proportionate share project to its five year capital improvements element: Where "additional contributions, payments, or funding sources are reasonably anticipated during a period not to exceed 10 years to fully mitigate impacts on transportation

facilities" DCA is statutorily prohibited from finding a local government to be not in compliance. Said another way, in adopting an update to its five-year CIE or amending its Future Land Use element, a local government could attempt to justify a shortfall in its financially feasible CIE by holding a hearing and making factual findings that it reasonably expects to come into additional contributions, payments, or funding sources that it has concluded will fully mitigate impacts on transportation facilities.

From a legal perspective, if a local government in fact attempts to rely on such projections and conclusions, it must be prepared to put forth evidence in an administrative hearing context that will show that at the time of adoption of its annual update to the CIE, it had competent evidence before it upon which the local government could base such a conclusion. It may not be legally sufficient for the local government to base its conclusions on generalized ideas or conjecture regarding future developer contributions vis-à-vis the proportionate share contribution. There should be quantitative data and analysis before the local government body to support its conclusion that additional funding sources were reasonably anticipated and in-hand on the projected timetable. If the local government is wrong, and if it has issued development orders vesting a development project's right to place traffic on a roadway that is now below level of service, adverse legal consequences to the local government could follow, even including sanctions. As a practical matter, the local government could find itself in the predicament of having to dedicate local government tax resources to replace projected future proportionate share receipts where a court or administrative body found the local government lacked a reasonable basis upon which to rely.

So, how did the Legislature intend for local governments to make this proportionate share program work? FDOT's model ordinances and draft inter-agency agreements have been vetted and posted on agency websites. There have been workshops held around the state. Even so, there are many unanswered questions that may ultimately result in a legislative re-visit, or even litigation.

Mark Your Calendar!

April 13, 2007

Tampa Airport Marriott

The popular

"Government in the Sunshine"

seminar is being modified to include the

Federal Administration Practice Act.

**PAT GLEASON, Department of Legal Affairs
will be the featured speaker.**

AGO Summaries

2006-01 to The Hon. David Ellspermann, Marion County Clerk of Courts. The clerk of court is not authorized to expend funds from the fine and forfeiture fund established by section 142.01, Florida Statutes, for work performed by prisoners whether pre- or post-sentencing. Work done by prisoners is not considered a “court-related function” within the scope of this statute, as expenses involved in paying for prisoner labor appear to be expenses incurred by the county.

2006-02 to Chief Dorene Thomas, Pinellas Park Police Department. An “Advance Life Support Pumper or Engine” that is permitted by the Bureau of Emergency Medical Services as an “Advance Life Support Non-transport vehicle” constitutes a “medical emergency vehicle” as that term is defined in section 316.1932(1)(c), Florida Statutes, to include ambulance or other medical emergency vehicles, such that a legal blood draw may be conducted in or about such a vehicle by EMS personnel pursuant to section 316.1932(1)(c), Florida Statutes.

2006-03 to Ms. Heidi B. McCree, Chair, Southwest Florida Water Management District. A closed attorney-client session may not be held pursuant to section 286.011, Florida Statutes, to discuss settlement negotiations on an issue that is the subject of ongoing mediation pursuant to a partnership agreement between the water management district and others, where no litigation has been filed in either the courts or before an administrative body.

2006-04 to Mr. William Preston, Attorney, New Smyrna Beach Utilities Commission. Utility records supplied by a utility com-

mission to the Florida Department of Law Enforcement are not exempt merely because they have been submitted to FDLE, section 119.071(2)(c)2., Florida Statutes, exempts FDLE’s request to inspect or copy records, as well as the UC’s response, or any information that would identify the public record that was requested by FDLE or provided by the UC during the period in which the information constitutes criminal intelligence information or criminal investigative information that is active.

2006-05 to Ms. Renee Francis Lee, Hillsborough County Attorney. Hillsborough County Charter may not be amended to waive ad valorem property tax immunity for property owned by the county but leased or used by a private entity for predominately proprietary purposes, absent a clear constitutional provision to waive the immunity of such property from taxation.

2006-06 to The Hon. Bill Gootee, Sheriff of Columbia County. Sheriff, having been granted broad discretion in public notification efforts and the authority to provide information to the public on sexual offenders and sexual predators who may live and work in the community “in any manner deemed appropriate,” is authorized to develop a program for community notification of the presence of a sexual predator or offender utilizing the placement of a decal on the vehicle of such offenders.

2006-07 to Mr. Hal A. Airth, Suwanee County Commission. Section 823.14, Florida Statutes, the “Florida Right to Farm Act,” protects reasonable agricultural activities conducted on farm land from nuisance suits. If a determination is made that a farm was adjacent to an established homestead

or business on March 15, 1982, and the fertilizing practices of the farm have changed to a “more excessive” operation that involves significant or substantial degradation in the locale, however, the county may enforce regulations applicable to those changes.

2006-08 to Mr. John C. Wolfe, City of St. Petersburg Attorney. Section 255.0517, Florida Statutes, authorizes the City of St. Petersburg to utilize an “owner-controlled insurance program” in connection with the construction of improvements to the city’s water resource system under the city’s capital improvement program plan, provided that the city will meet the conditions specified in section 255.0517(2)(b)-(g), Florida Statutes, and such project does not fall within any of the exceptions set forth in section 255.0517(3), Florida Statutes.

2006-09 to Mr. Dennis J. Alfonso, Attorney for Pasco County Clerk of Court. In response to the question of whether section 741.07(1), Florida Statutes, authorizes a minister, clerk or judicial officer from a state other than Florida to solemnize marriages within this state, it was concluded that “of this state” in section 741.07(1), Florida Statutes, refers to “all judicial officers, including retired judicial officers, clerks of the circuit courts, and notaries public;” while all regularly ordained ministers of the gospel or elders in communion with some church, or other ordained clergy, whether in this state or not, are authorized to perform marriages pursuant to section 741.07.

2006-10 to Ms. Dolores D. Menendez, Cape Coral City Attorney. City Council may not amend the city charter by ordinance, and without referendum,

to change the amount of salary or compensation paid to the mayor and city council members.

2006-11 to Mr. Clifford B. Shepard, City of Maitland Attorney. Section 316.066, Florida Statutes, does not authorize the release of written crash reports to the city's fire department for purposes of requesting reimbursement from the at-fault driver in an accident for a fee assessed by the city.

2006-12 to Mr. Paul J. Marino, Town of Kenneth City Attorney. City may use municipal funds to pay for special events insurance coverage for the town and for organizations and others using municipal property following a determination that this expenditure serves a municipal purpose.

2006-13 to Ms. Gail L. Gowdy, Town of Melbourne Beach. Members of each of the Board of Adjustment for the town and the Planning and Zoning Board for the town are officers and both offices cannot be held simultaneously without violating the provisions of Article II, section 5(a), Florida Constitution, the dual officeholding prohibition.

2006-14 to Mr. Charles I. Nash, Attorney for the Brevard County Sheriff. A sheriff is considered to be a county governmental unit for purposes of section 197.552, Florida Statutes, and thus a lien of record held by the sheriff that is not satisfied by the disbursement of proceeds of sale under the provisions of section 197.582, Florida Statutes, survives the issuance of a tax deed for purposes of section 197.582(2), Florida Statutes.

For the full text of these opinions, please select the "AG Opinions" icon at "www.myfloridalegal.com"

Rule 6-25 State & Federal Government and Administrative Practice Certification

Hank Coxe III, the President of The Florida Bar, has appointed nine members to form the inaugural certification committee responsible for the new State and Federal Government and Administrative Practice (SFGAP) Certification program. The appointments were made after the Supreme Court of Florida adopted the plan, which can be found at 933 So. 2d 1123 (Fla.2006).

The members of the new committee and their respective affiliations are as follows: Chair William E. Williams from Huey, Guilday, Tucker, Schwartz & Williams P.A.; Vice Chair Mary Smallwood from Ruden McClosky; F. Scott Boyd from the Joint Administrative Procedures Committee; Allen R. Grossman from Gray Robinson; Eleanor Hunter from the Florida Division of Administrative Hearings; Cathy M. Sellers from Broad and Cassel; Charles A. Stampelos from the Florida Division of Administrative Hearings; Keith Rizzardi from the U.S. Department of Justice, and

George Waas from the Florida Office of the Attorney General.

The committee held its first meeting on October 26, 2006, and, with the guidance of The Florida Bar's Board of Legal Specialization and Education, began development of the application, policies, and examination. The first class of SFGAP certified lawyers is expected to be certified August 1, 2007. Members of The Florida Bar who are interested in becoming certified, whether by examination or through the grandfathering process, should monitor The Florida Bar News as well as The Florida Bar website, www.floridabar.org/certification, for future announcements.

For further information, or to provide input, please contact either Keith Rizzardi at keith.rizzardi@usdoj.gov, or George Waas at George_Waas@oag.state.fl.us. The staff liaison for this area is Alexzina (Zina) Jackson who may be reached via telephone at 800-342-8060 ext. 5768 or via email at ajackson@flabar.org.



To obtain your own **KIDS DESERVE JUSTICE** specialty plate:

- Visit your local tag office
- Contact The Florida Bar Foundation at 1-800-541-2195, ext. 104
- E-mail kdj@flabarfndn.org
- Or visit www.flabarfndn.org/KidsDeserveJustice

FOUR PROGRAMS FOR PUBLIC LAWYERS

presented at the **HYATT REGENCY MIAMI** on **FRIDAY, FEBRUARY 9, 2007**

Promoting Diversity in the Practice of State, Local, Government and Public Sector Law <i>Presented by the ABA Section of State and Local Government Law</i>	Public Law Office Management 101 CLE <i>Presented by the ABA Government and Public Sector Lawyers Division; co-sponsored by the Section of State and Local Government Law</i>	Ethical Considerations in Public Sector Law CLE <i>Presented by the ABA Government and Public Sector Lawyers Division; co-sponsored by the Section of State and Local Government Law</i>	Pathways to Success for Women and Minorities in the Public Sector <i>Presented by the ABA Section of State and Local Government Law</i>
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PROGRAM

All courses will be held in the **Miami Lecture Hall, 3rd Floor, Hyatt Regency Miami**. Program co-sponsored by *The Florida Bar's Government Lawyer Section*.
8:30 – 9:45 a.m.

Promoting Diversity in the Practice of State, Local, Government and Public Sector Law

A major challenge of the new century is building a legal profession that reflects our diverse society. Leaders within state, local, government, and public sector law will discuss the issues, challenges, and opportunities in promoting diversity. Panelists are: **Lysia Bowling**, State Attorney's Office, 11th Judicial Circuit; **Sidney Calloway**, Shutts & Bowen LLP; **Jorge L. Fernández**, City Attorney, Miami, FL; and **Ardyth Walker**, Staff General Counsel, Miami-Dade Commission on Ethics and Public Trust. *Sponsored by the Section of State and Local Government Law; co-sponsored by the Division.*

10:00 a.m. – 12 noon

Public Law Office Management 101: Strategies, Solutions and Ethics Rule Implications CLE

This seminar examines issues and ethical implications relevant to running a successful public law office and enhancing the quality and efficiency of service to clients. Topics include: recruiting; retention; developing a legal team; motivating staff; supervising; and building excellent attorney/client relations. Explores topics using humorous, real-life scenarios and lively discussion. Faculty presenters are: **Greg Brooker**, Assistant U.S. Attorney, Minneapolis, MN; **John J. Copelan, Jr.**, General Counsel, Florida Department of Children & Families; **Jorge L. Fernández**, City Attorney, Miami, FL; **Ellen M. Lazarus**, Acting Assistant Director, Congressional Research Service, American Law Division; and **Sharon Pandak**, Chair, Division's CLE Committee and Partner, Greehan, Taves, Pandak & Stoner, PLLC. *(Two hours of ethics CLE credit has been requested. Please see "MCLE Credit")*

1:30 – 3:30 p.m.

Ethical Considerations in Public Sector Law CLE

This program focuses on the unique ethical issues confronted by public lawyers using an entertaining, interactive format. Panelists dramatize short hypothetical scenarios with a discussion period following each skit. Faculty presenters are: **Professor Anthony Alfieri**, University of Miami School of Law; **Bob Butterworth**, Secretary, Florida Department of Children & Families; **Marcia G. Cooke**, U.S. District Judge, Southern District of Florida; **Dexter Lee**, Senior Litigation Counsel, U.S. Attorney's Office, Southern District of Florida; **Sharon E. Pandak**, Chair, Lawyer's CLE Committee and Partner, Greehan, Taves, Pandak & Stoner, PLLC; and **Vivian Reyes**, Attorney, Law Offices of Richard J. Preira & Associates, and Former Bar Counsel, Lawyer Regulation of The Florida Bar, Miami Branch. *(Two hours of ethics CLE credit has been requested. Please see "MCLE Credit")*

3:45 – 5:15 p.m.

Pathways to Success for Women and Minorities in the Public Sector

This program features a diverse panel of public lawyer-leaders who describe their current positions and discuss the obstacles, encouragement, and serendipitous events that helped them achieve success. Panelists are: **CDR Benes Aldana**, Deputy Staff Judge Advocate, U.S. Coast Guard; **Anne Dewey-Balzhiser**, President, Women Lead LLC; **Jorge L. Fernández**, City Attorney, Miami, FL; **Iris Jones**, Former President, International Municipal Lawyers Assoc; and **Sheryl Wood**, General Counsel, South Florida Water Management District. *Cosponsored by the ABA Commission on Racial and Ethnic Diversity in the Profession, Commission on Women in the Profession, and Young Lawyers Division.*

5:15 – 6:30 p.m.

**Complimentary Reception
Orchid C, Terrace Level, Hyatt Regency Miami**

REGISTRATION INFORMATION

Name: _____
 Title: _____
 Office: _____
 Address: _____
 City: _____ State: _____ Zip: _____
 Telephone: _____
 Fax: _____
 Email: _____

Please check here if you need special assistance due to a disability.

Please send completed form to Sarah Hilton:
 American Bar Association
 Government and Public Sector Lawyers Division
 740 15th Street, NW
 Washington, DC 20005
 FAX: 202-662-1751

Questions? Please email hiltons@staff.abanet.org.

REGISTRATION FEES

<input type="checkbox"/> Promoting Diversity:	FREE
<input type="checkbox"/> Public Law Office Management 101 CLE:	\$30.00
<input type="checkbox"/> Ethical Considerations CLE:	\$30.00
<input type="checkbox"/> Pathways to Success:	\$15.00
<input type="checkbox"/> Discount for registering for these 3 programs:	\$60.00
<input type="checkbox"/> Reception:	FREE

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 Please charge \$_____ to my Visa / MC / American Express
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 (if different from above): _____
 Signature: _____
 Date: _____

Cancellations: The Government and Public Sector Lawyers Division regrets that cancellations cannot be accommodated. However, upon notification to the Division, a substitute will be permitted to take the place of a registrant.

MCLE Credit: Required sponsor documentation has been forwarded to and credit requested from MCLE states with general requirements for all lawyers for Public Law Office Management 101 (2 hours) and Ethical Considerations in Public Sector Law (2 hours). Lawyers seeking credit in Pennsylvania must pay a fee of \$1.50 per credit hour directly to the PA CLE Board. The ABA pays applicable fees in other states where the sponsor is required to do so. In states where a late fee may become applicable, the ABA pays this fee as well. Please be aware that each state has its own rules and regulations, including its definition of "CLE" as well as "Ethics." Therefore, certain programs may not receive credit in some states. Please check with your state agency for confirmation of general as well as ethics approval for any program. You may contact the ABA Service Center at 1-800-285-2221 for confirmation of the number of CLE credit hours requested by the ABA or approved by a particular state.



The Florida Bar Continuing Legal Education Committee and the
Government Lawyer Section present

Practicing Before the Legislature

COURSE CLASSIFICATION: INTERMEDIATE LEVEL

One Location: February 2, 2007

**Senate Office Building, 404 S. Monroe St. (Parking at Kleman Plaza off Duval Street)
The Capitol, Tallahassee, 32399**

NOTE: No food or beverages are allowed in the House Chamber or Senate committee room. Course No. 0427R

7:00 a.m. – 8:00 a.m.

Danish at Capitol Cafeteria

■ **MORNING SESSION WILL BE HELD IN ROOM 401 –
FOURTH FLOOR, SENATE OFFICE BUILDING**

8:00 a.m. – 8:25 a.m.

Late Registration

(in front of Room 401, Fourth Floor Senate Office Building)

8:25 a.m. – 8:30 a.m.

Introduction and Welcome Remarks

8:30 a.m. – 9:40 a.m.

The Legislative Process

This presentation is an overview of “The Legislative Process.” Find out how bills are filed, move through the legislative process, are passed, amended, defeated, become law, or are vetoed.

Patrick L. “Booter” Imhof, Staff Director, Senate Regulated Industries Committee, Tallahassee

9:40 a.m. – 10:00 a.m.

Break

10:00 a.m. – 10:50 a.m.

Legislative Sunshine

This presentation will highlight the recently enacted prohibitions on legislative lobbying expenditures and the required reporting of lobbying firm compensation; and public records; and open meetings in the Legislature.

Steve Goodwin, Deputy General Counsel, Florida House of Representatives

10:50 a.m. – 12:00 noon

Simulated Committee Meeting

The Committee members composed of Legislative staff and former Senators will present the committee process, including consideration of bills, taking of testimony and disposing of motions and amendments during a Legislative Committee Meeting.

Committee Members:

R. Philip “Phil” Twogood, Chair

Patrick L. “Booter” Imhof, Staff Director

Frederick R. “Fred” Dudley

S. Curtis “Curt” Kiser

Barry Munroe

J. Lynn Koon, Committee Administrative Assistant

Marc W. Dunbar – bill sponsor

12:00 noon – 12:30 p.m.

Changes to the Senate Rules and Overview of the Secretary’s Office

The Secretary will give an overview of the changes in the Senate Rules for the upcoming biennium. She will also give an overview of the duties of the Secretary’s office and the Senate Chamber.

The Honorable Faye Blanton, Secretary of the Florida Senate

12:30 p.m. – 1:30 p.m.

Lunch (on your own)

■ **AFTERNOON SESSION WILL BE HELD IN THE HOUSE
CHAMBER – FOURTH FLOOR, THE CAPITOL BUILDING**

1:30 p.m. – 1:35 p.m.

Reconvene and Welcome Remarks

1:35 p.m. – 2:25 p.m.

Lobbying and Ethics in the Legislature

This presentation will discuss the Florida law governing registration, reporting, and regulation of lobbyists representing public and private interests. It will also include practical tips on dealing with legislators and some of the ethical rules dealing with non-adjudicative proceedings.

Peter M. “Pete” Dunbar, Former Representative, Florida House of Representatives, Tallahassee

2:25 p.m. – 2:55 p.m.

Changes to the House Rules and Procedures

The Parliamentarian will give an overview of the changes in the House Rules for the next biennium and will describe the powers and duties of the new Office of Parliamentarian.

*The Honorable Leonard M. Collins
Parliamentarian, Florida House of Representatives*

2:55 p.m. – 3:10 p.m.

Break

3:10 p.m. – 3:40 p.m.

Office of the Chief Clerk

The Chief Clerk will give an overview of the duties of the Clerk’s Office and the House Chamber.

*The Honorable William S. “Bo” Pittman, III
Chief Clerk, Florida House of Representatives*

3:40 p.m. – 4:30 p.m.

Simulated Floor Session

Registrants will sit in the members’ chairs on the floor of the House and hear legislative staff and former members of the Legislature debate amendments, motions, and vote on legislation.

Participants:

Samuel P. “Sam” Bell, III – Speaker

Peter M. “Pete” Dunbar – Majority Leader

Don Rubottom – Rules & Calendar Council Chair

J. Marleen Ahearn – Policy and Budget Council Chair

Deborah K. Kearney

Michael A. Kliner

Phillip B. Miller

Marc W. Dunbar

Patrick L. “Booter” Imhof – Reading Clerk

CLE CREDITS

CLER PROGRAM

(Max. Credit: 7.5 hours)

General: 7.5 hours Ethics: 1.0 hours

CERTIFICATION PROGRAM

(Max. Credit: 7.5 hours)

City, County & Local Gov't: 7.5 hours
State/Federal/Gov't. Admin. Pract.: 7.5 hours

How to register:

 **ON-LINE:** www.FLORIDABAR.org
* NEW * SECURE * FASTER *

 **MAIL:**
Completed form
w/check.

 **FAX: 850/561-5816**
Form with
credit card information.

REFUND POLICY: Requests for refund **must be in writing and postmarked** no later than two business days following the course presentation. Registration fees are non-transferrable, unless transferred to a colleague registering at the same price paid. A \$25 service fee applies to refund requests.

Register me for the "Practicing Before the Legislature" Seminar

ONE LOCATION: (007) SENATE OFFICE BUILDING, THE CAPITOL, TALLAHASSEE, FL (FEBRUARY 2, 2007)

TO REGISTER BY MAIL, SEND THIS FORM TO: The Florida Bar, CLE Programs, 651 E. Jefferson Street, Tallahassee, FL 32399-2300 with a check in the appropriate amount payable to The Florida Bar or credit card information filled in below. If you have questions, call 850/561-5831. ON-SITE REGISTRATION, ADD \$25.00. **On-site registration is by check only.**

Name _____ Florida Bar # _____

Address _____

City/State/Zip _____ Phone # _____

AJC: Course No. 0427R

REGISTRATION FEE (CHECK ONE):

- Member of the Government Lawyer Section: \$135
- Non-section member: \$160
- Full-time law college faculty or full-time law student: \$80
- Persons attending under the policy of fee waivers: \$0
Includes Supreme Court, DCA, Circuit and County Judges, Magistrates, Judges of Compensation Claims, Administrative Law Judges, and full-time legal aid attorneys if directly related to their client practice. (We reserve the right to verify employment.)

METHOD OF PAYMENT (CHECK ONE):

- Check enclosed made payable to The Florida Bar
- Credit Card (Advance registration only. Fax to 850/561-5816.) MASTERCARD VISA

Signature: _____ Exp. Date: ____/____/____ (MO./YR.)

Name on Card: _____ Card No. _____



Please check here if you have a disability that may require special attention or services. To ensure availability of appropriate accommodations, attach a general description of your needs. We will contact you for further coordination.

The Florida Bar's
Claude Pepper
Outstanding Government Lawyer Award

NOMINATION INFORMATION

NOMINATION INFORMATION:

Purpose: The purpose of The Florida Bar's Claude Pepper Outstanding Government Lawyer Award is to recognize an outstanding lawyer who has made an extraordinary and exemplary contribution as a practicing government lawyer. The award is named in honor of the Honorable Claude Pepper, a Florida attorney, United States Senator, and United States Congressman, who was an advocate on behalf of the people, and who represented the highest ideals of government service through twelve presidential administrations. This prestigious award will be presented at The Florida Bar's Annual Convention. Originated in 1989, there have been fourteen recipients of the award: Charles C. Jeffries, Jr.; Chriss Walker; John J. Copelan, Jr.; Enoch J. Whitney; Irene K. Quincey; Joseph Lewis, Jr.; Anthony C. Musto; George B. Barrs; Jorge Fernandez; James A. Peters; and George Waas, Deborah K. Kearney, Denise Dytrych, William B. Hammill, Sheryl Wood, Jack Shreve and Anthony Loe..

NOMINATION CRITERIA:

Nominee must be a member of The Florida Bar in good standing and currently a practicing government lawyer, who has provided legal services at least ten (10) years in full-time government employment. The nominee should exemplify the highest ideals of dedication, professionalism, and ethics in service to the public. The nominee should have made outstanding contributions in providing legal services for the public interest. (Elected officials or judges currently serving in that capacity are not eligible.)

SELECTION PROCEDURE:

Nominations are reviewed by the Claude Pepper Award Nominations Committee, which selects semi-finalists to be submitted to the Claude Pepper Selection Committee. Nominees from the previous year will be included for consideration of the award. The recipient of the award will be chosen by the Selection Committee, which is comprised of the President of The Florida Bar, the Chair of the Government Lawyer Section, and the Chair of the Claude Pepper Award Nominations Committee. Additionally, two other members from the Government Lawyer Section Executive Council will be selected as alternate members of the Nomination or Selection Committee, and who will only vote in the event of a conflict of interest of one or more members of a committee.

A "conflict of interest" is presumed and the committee member must recuse him or herself if one or more of the following factors occurs: 1) member is the employer of the nominee; 2) member is the employee of the nominee; 3) member is a co-worker of the nominee; or 4) member is a relative of the nominee. "Relative" for the purposes of this procedure means any nominee who is the father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, or daughter-in-law of the committee member.

If a question arises as to the applicability of this provision, it shall be referred to the Chair of the Section for resolution. If the question relates to the applicability of this provision to the Chair of the Section, it shall be referred to the Chair-Elect of the Section for resolution.

Each year, selected nominees from the two previous years will be "rolled over" and eligible to be considered for the current award.

DEADLINE:

Completed nomination forms for each nominee and four copies of materials should be submitted **on or before March 19, 2007**. Questions and inquiries should be directed to: Claude Pepper Government Lawyer Award; Government Lawyer Section, The Florida Bar, 651 E. Jefferson Street; Tallahassee, Florida 32399-2300; (850) 561-5625, FAX: (850) 561-5825.

Please submit this form and attachments by March 19, 2007 to:

Claude Pepper Government Lawyer Award
The Florida Bar – Government Lawyer Section
651 E. Jefferson Street
Tallahassee, Florida 32399-2300
850/561-5625 FAX: (850) 561-5825

The Florida Bar's Claude Pepper Outstanding Government Lawyer Award

Nomination Form

1. Name of nominee: _____
Title: _____
Address: _____
City/State/Zip: _____ Phone: _____
E-mail: _____
2. Government agency where nominee is employed full time: _____

3. Number of years nominee has practiced law in full-time government employment: _____
4. Attach a current resume of the nominee (if possible).
5. Describe in detail the contributions made by the nominee in the area of providing exemplary legal services as a government lawyer. You may list specific matters handled by the nominee. (Use separate sheet if necessary)

6. Name of person/organization submitting this nomination, address and telephone number.
Name: _____
Organization: _____
Address: _____
City/State/Zip: _____ Phone: _____
E-mail: _____
7. Name of contact person with additional information, if different from above:
Name: _____
Phone: _____

The Florida Bar
651 East Jefferson Street
Tallahassee, FL 32399-2300

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