



NAHO NEWS

The National Association of Hearing Officials is a Professional Nonprofit Organization

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Memories from Minneapolis— Conference 2003

by NAHO President, David Stebing, CALJ (AK) and Sharon Kulp, CHO (KY) and photos by Robert Nall (AZ)

NAHO's conference this year was yet another high quality, high-energy professional training experience. The recently renovated Millennium Hotel located on the renowned Nicollet Mall in Minneapolis provided excellent service in a convenient downtown setting. We were blessed in mid-September with beautiful sunny, shirt-sleeve weather for most of our time together.

Vikki Lemberger and Louis Thayer, both proud residents of St. Paul – the other half of the Twin Cities, did the lion's share of the organizational and logistical planning for the conference. Vikki ably served as conference coordinator, and Louis put together a great curriculum for us. As always, our conference was approved for CLE credit, this time by credit granted from the Minnesota State Bar Association. Our conference theme "Back to Basics – Fundamentals for All Administrative Hearing Officials" was well received by the diverse conference registrants. Participants hailed from 27 states and the Virgin Islands, and there were 28 hearing officials from Minnesota in attendance.

Here are a few of the highlights. We were greeted at the General Session on Sunday by Kevin Goodno, Commissioner of the Minnesota Department of Social Services, representing

the agency co-sponsor for the conference. He shared his valuable legal and legislative experience and provided encouraging words of commitment for serving the public through the administrative hearing process. The commissioner specifically addressed the importance of the U.S. Supreme Court decision of *Goldberg v. Kelly* in an age of rising caseloads, shrinking government budgets and ever increasing complexities

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Dennis Hugo of the Virgin Islands leads the way.



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NAHO 2003 Conference

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of substantive issues. Roundtables later that afternoon “broke the ice,” providing a good introduction to the conference and gave attendees an opportunity to interact and exchange ideas in a comfortable setting. The welcome reception that evening in the hotel’s Sky Room provided excellent views of the city, great food, and the opportunity to renew friendships, make new acquaintances, and network with colleagues from around the country.



David Stebing, MN State Senator Mee Moua, Victoria Lemberger, and NAHO President-elect, Ellen Anderson



Louis Thayer and Sharon Kulp



Chief Judge Edward Toussaint, Jr., Victoria Lemberger, and David Stebing



Sharon Kulp and Michael Trammel (Mr. Video) dance it up



Sky Room reception Sunday evening



NAHO Officers and Board members

Our keynote speaker at the Opening Session on Monday was Edward Toussaint, Jr., Chief Judge of the Minnesota Court of Appeals. The impressive jurist delivered an inspired address challenging hearing officials in attendance to continually be aware of the need for our hearings to be measured by the criterion of fairness. He also offered us the sage advice that every obstacle presents an opportunity for improvement. State Senator Mee Moua was our luncheon speaker that day, and she gave a heartfelt and lively speech describing her firsthand experience with justice, and sensitizing the audience to characteristics of the Hmong culture.

Conference evaluations rated the workshop sessions highly, and were complimentary of presenters for thought-provoking, entertaining, and insightful classes. Comments from new hearing officials praised the conference for meeting their needs. Larry Geller’s presentation about prejudice and justice during the closing session received much positive feedback. Many observers recommended that we conclude future conferences with similar upbeat, inclusive, creative and interactive presentations.

Our traditional Tuesday evening banquet recognized many individuals for their efforts as hearing officials or for their valuable contributions to NAHO, and those individuals who

received their certificates as Certified Hearing Officials or Certified Administrative Law Judges. NAHO also welcomed and installed its 2004-2005 Officers and Board Members. The evening’s entertainment, a calypso band, with NAHO’s own Steve Moon from Minnesota playing the bass guitar, was a smashing success. The troupe succeeded in gradually warming up a room full of hearing officials. Eventually as the music played it was Hot! Hot! Hot! NAHO folklore now includes the vision of Dennis Hugo of the Virgin Islands leading a long conga line of wide-smiling celebrants from one end of the banquet room to the other, hands on the shoulders in front of them. Report has it that the reluctant President even danced for the first time in many moons.

With membership at historic high levels, and a full and enjoyable conference nearly concluded, we had much to celebrate. We owe a special mention and a debt of gratitude to our registrar, Linda Jo Nicholson, who served exceptionally well in her first year performing this important function. Robert Nall did a tremendous job, as usual, as photographer and our indispensable historian, whose work we look forward to seeing again and again.

Next year we’ll try the Cotton Eyed Joe. See you at Fort Worth in October!

From the President

by David Stebing, CALJ (AK)

It is the end of my two-year term as president of NAHO, and my last opportunity to share a message in this forum provides an opportune and inevitable moment for reflection upon the past and future.

My term began during less than auspicious times. The year 2002 commenced with unique and unforgettable circumstances for us all. A world-changing terrorist attack the prior year on 9/11 affected everyone, and it left an imprint on NAHO as well. Although our conferences are vital to our mission, the 2001 conference was appropriately cancelled on the eve of its commencement, after tremendous effort had

been expended for its preparation. In addition to the memory of unparalleled grief and shock from that event, I am reminded of the unofficial Rule # 1 for administrative hearings in the office where I work – “Be flexible.” My secretary and I often supportively recall this useful admonition.

In contrast, some things do not change. The need for justice is one of them. It is said that we live in a world where justice is now more important than ever. Accordingly, NAHO wisely chose the conference theme for the cancelled conference – “Changing Times: Unchanging Standard of Justice” – as its theme for the 2002 conference in



Anchorage, Alaska. Accounts from participants at that conference reflect that they had memorable positive professional training experiences, and they had many opportunities to enjoy Alaska’s distinctive entertainment and the grandeur of its natural physical beauty.

Our 2003 conference was held in Minneapolis, Minnesota. The Twin Cities

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Award Recipients at 2003 Conference

by David Stebing, CALJ (AK)

The following awards were presented at the banquet on Tuesday evening during the 2003 annual conference in the Millennium Hotel at Minneapolis. Each of the following annual award recipients were given a small inscribed commemorative Alaska gold pan.

Board of Director’s Award – This is the fourth year the Board of Directors has recognized an individual for her or his unique and invaluable contributions to NAHO. This year the board chose Diane Keeney, of Sacramento, California. Diane is employed by the California Department of Social Services as a Management Services Technician, and she has worked for many years with Administrative Law Judge Larry Geller, the editor of NAHO News. She is recognized for her dedicated and tireless efforts assisting Larry with editing and printing the newsletter. Whenever Larry was out of the office, Diane ably and courteously served as ex-officio editor.



President’s Award – Each year the current president chooses a deserving individual for this award based on contributions to the organization. Long time board member and recently retired as Founding NAHO Librarian and Conference Registrar Maria Ortiz-Mayer of Austin, Texas, received the award this year. Maria was recently elected NAHO’s treasurer for the 2004-05 term. We appreciate her tireless energy and dedicated efforts in working on innumerable NAHO projects over the years.



Truett R. DeMoisey Professionalism Award — This award is named after our beloved colleague, friend and mentor, Truett DeMoisey. It recognizes an individual who models ethical behavior and high ideals of professionalism. The current president chooses the recipient each year. Hugo Franco of Phoenix, Arizona received the award this year. We have gratefully acknowledged Hugo's contributions of his managerial skills and optimistic attitude while contributing to NAHO over the past board term.



NAHO Members Speak

At the conference two NAHO members, President-Elect Ellen Anderson and Larry Geller, gave important and very well-received talks which are discussed below.

Better Together

by Robert Nall, CALJ (AZ)

NAHO President-elect Ellen Anderson, the hearing officer for the Washington State Department of Retirement Systems, addressed the general assembly on September 15, 2003. She provided a refreshing and upbeat answer to the ages-old question asked of a hearing official, "What do you do?" with the response "I listen!"

As hearing officials, we must listen with a fully attentive mind. It's a rare art and a difficult task to listen well, and it can be draining. Hearing officers must become lifelong learners, because they must comprehend the background of each case, and the impact of the most recent legislative and agency changes. In contrast to many judicial proceedings, when an administrative hearing officer makes a decision, he or she may need information that nobody thought to provide. The hearing official may have to "dig that out," by knowing beforehand what is needed and by getting it into the record.

We contend with forces that are not necessarily lined up to help us get our jobs done! Ellen reminded us to treasure our mentors. Sometimes we report to administrators who have life and death authority over our jobs, but who have never personally done our job and who may lack the background to understand the difficulties we must overcome, including unfamiliar hearing locations, short notification, disruptive behaviors, and lack of adequate security. Nationwide, budget cuts have meant that caseloads have risen yet fewer staff remain available to meet higher expectations of timeliness and accuracy.

As we listen, learn, decide and handle logistics locally, we share a need



President-Elect
Ellen Anderson

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Justice vs. Prejudice and You

by Ellen Anderson (WA)

Larry Geller challenged many with his presentation, the centerpiece of a very well-attended closing session. He asked all of us to examine our biases and assumptions about other people. Larry got people thinking by asking audience members what they thought about him based on his own appearance. The answers were surprising and varied! The audience responded to other questions, showing that we have many different backgrounds, that our early experiences are from a wide variety of locales and all kinds of communities. Larry went on to ask how these different backgrounds might affect how we see people, though we may not be aware of it. He drew on well-known and troubling recent cases in the court system to help illustrate how distrust skews perceptions and undermines justice. Recognizing that it is universal to have preconceptions and bias, both pro and con based on our life experiences about others, we must make the effort to become more aware of them

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State Senator Moua Shares Insights

by Ellen Anderson (WA)

Mee Moua, Minnesota State Senator, addressed the conference at the luncheon on Monday. Senator Moua may be smaller in physical stature than most in the audience, but her presence carried enormous impact. She earnestly and passionately engaged her listeners, asking them to care about making the system work for those who are different and struggling with issues often invisible to the mainstream culture.

Her own personal story is compelling. The Senator, a native of Southeast Asia, is a member of the Hmong people. Her family immigrated to the United States when she was very young, and their first settled home was in

Appleton, Wisconsin. She and her family were targets of racial hostility and harassment as they sought opportunities to successfully enter American life. She was the first in her family to learn English, and for this reason had to assume some adult responsibilities early on. During her high school years, she worked to translate language and culture for both the pre-existing community and her own Hmong community. In these years she assisted other Hmong with family arrangements, international document requirements and many legal difficulties, easing the misunderstandings between the Hmong and their neighbors. Since then many Hmong from all over the country have

sought her advice and assistance. With this background of extensive contact with the American legal system, she continued to serve the needs of her people while she attended college and graduated from law school. She remains a sought-after advisor and liaison.

Conference participants were interested to learn that the Minneapolis area is home to the largest Hmong community in the United States. With humor, intelligence and energy, Senator Moua provided a glimpse into their lives. Impressed with her message, achievements and personal appeal, the all of the persons present gave her a standing ovation.

NAHO Election Results

by Laurence H. Geller (CA)

I am very pleased to announce, as the Chairman of the NAHO Nominating Committee, the results of the elections for the Officers and Board members for 2004-2005. The following individuals have been elected to represent you during the next term:

President

Ellen Anderson - Washington

Vice President

Hugo Franco - Arizona

Secretary

LeAnn Abbot, CHO - Indiana

Treasurer

Maria Ortiz-Mayer, CHO - Texas

Northeast Regional Representative

Eva Tar - Connecticut

Alternate

Anne Popolizio - Connecticut

Southeast Regional Representative

Sharon Kulp, CHO - Kentucky

Alternate

LindaJo Nicholson, CHO - Florida

Southwest Regional Representative

Larry Moore, CHO - Texas

Alternate

Sherrie Teasley - Texas

Central Regional Representative

Victoria Lemberger - Minnesota

Alternate

Michael Trammel, CALJ - Indiana

Mountain Regional Representative

Bonny Fetch, CALJ - North Dakota

Alternate

Susan Kirkvold, CALJ - South Dakota

Western Regional Representative

John Gray, CALJ (WA)

Alternate

Laurine Tuleja, CHO (CA)

NAHO Board says, Thank you Larry Geller!

by Kristal Wiitala Knutson (WA)

By acclamation of the NAHO Board of Directors, we express our deep gratitude for your long and outstanding service as our newsletter editor and to NAHO in general. Unfortunately, this will be the last issue produced by Judge Geller and his capable and helpful staff. NAHO News has made great strides in achieving professionalism and depth of content under Larry's editorial direction, arousing great interest in members and others in the organization as it keeps us connected. It has come a long way and you are due the credit, along with Diane Keeney of your unit. We appreciate and will miss your innovative ideas and attention to quality and content.

Since 1989, Judge Geller has been an instrumental part of NAHO, its history and its folklore. His commitment to justice, fairness and quality of adjudication has inspired many hearing officials across the country. He has offered countless exciting and thought-provoking workshops, delivered insightful keynote addresses, spent several terms on the Board, served many years on the Nominating Committee, and kept attendees entertained in the social hours with his wit, humor, spark, and grace, and, of course, his hip-hop dancing!

While the rumors have long flown and rumbled, it is apparently true and

beginning to sink in that Larry will be retiring from the California DSS in February 2004, so we also wish to congratulate Larry on his retirement and moving on to the next phase of his career and life. Thank you, Larry, for your contributions of time, energy and effort to NAHO – we wish you all the best!



Certification

LeAnn Abbott, CHO (IN)

The Certification Committee has once again been busy this year with a number of Hearing Officials being certified and recertified. Since the certification program was first started in 1995, we have certified a total of 106 individuals. We have three applications still pending this year. So far this year 11 people have completed the certification process. They are:

Bonny M. Fetch, CALJ	North Dakota
K. Janelle Haught, CALJ	New Mexico
Patsy Ann Robbe McLeod, CHO	Texas
Marta M. Montalvo, CALJ	New York
Eric G. Moody, CHO	Idaho
Robert T. Nall, CALJ	Arizona
Lilly M. Paisley, CHO	Ohio
Louise D. Schaeffer, CALJ	New Mexico
Joyce A. Shelton, CHO	Idaho
Monika Weiss, CHO	Texas

Individuals certified in 1997 and 2000 were also required to complete the recertification process. We have recertified 15 Hearing Officials this year. We congratulate these individuals on their hard work.

We will soon start taking applications for 2004. We encourage you to start the process early. If you are interested in learning more about the certification program, go to our website at www.naho.org and click in to "certification". Very soon we will have the 2004 application on the website or you can obtain a copy by contacting any certification committee member. If you want further information contact either LeAnn Abbott at labbott@fssa.state.in.us or Sharon Kulp at shkulp@insightbb.com or write us at NAHO, PO Box 367, Louisville, KY 40201. We look forward to presenting certificates next October in Ft. Worth, Texas.

From the President

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were a winsome location for our symposium, and the September weather was delightfully sunny and warm. Our theme reflected a return to our roots: "Back to Basics – Fundamentals for All Administrative Hearing Officials." This issue of the newsletter contains descriptions of many fruitful efforts and fun experiences from the conference.

As an organization, we have many strengths upon which to draw. NAHO's membership steadily increases, and it reached an all-time high in 2003. We continue to maintain openness, informality, and collegiality as important attributes of our organization. Our diverse blend of attorneys and non-attorneys adjudicating in a broad range of subject areas, both within and outside of central hearing panels, continually invites new ideas and different voices.

I am mindful that time marches on. The years 2002-03 brought transitions for NAHO regarding important personalities we have known as major contributors to the organization over the years. Bill Kane, one of our founders, passed away in 2003. In his honor, the Board of Directors Award was renamed the William Kane Service Award. His loving wife Gwynn shared that "NAHO always held a special place in Bill's heart," and the annual award "will be such a wonderful way to remember Bill's efforts and support of NAHO."

Additionally, at the end of 2003, our beloved friend and mentor Truett DeMoisey retired in Kentucky. He was the first recipient of the NAHO Professionalism Award in 1998 and it has borne his name ever since. Former NAHO

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In Memoriam Bill Kane



by Susan LaRose, Retired (CN)

Many long-time members of NAHO were saddened by the passing of Bill Kane, who died suddenly on October 25, 2003. Bill Kane was instrumental in the founding of this organization and a key player in guiding it to become the organization we now appreciate. Bill retired from the Connecticut Department of Social Services in 1994 having served as Director of Fair Hearings for many years. He moved to Cape Cod where he was partner in a real estate business. Expressions of sympathy may be sent to his widow, Gwynn Kane, 285 Setucket Road, Dennis MA 02638-2521. Donations in his memory may be made to Yankee Golden Retriever Rescue, P.O. Box 808, Hudson, MA 01749.

As a past president, Bill was a lifetime member of NAHO. "To live in hearts we leave behind is not to die." Bill will remain in our hearts and we will always be grateful for his many contributions to NAHO.

NAHO Library

by Michael Trammel (IN)

ELEVEN NEW VIDEOS NOW AVAILABLE

There are five new videos from the 2002 National Training Conference in Anchorage, Alaska and six from the 2003 Conference in Minneapolis, Minnesota.

The new releases are:

Administrative Law with Professor William R. Andersen, University of Washington School of Law deals with the history, theory and recent developments in administrative law.

Administrative Review of Decision with Hugo Franco, Appeals Board of Arizona Department of Economic Security, gives a brief overview of the administrative review process with particular focus on those things that hearing officials do that may cause an appellate body to reverse, set aside or remand a case.

Computer Forensics in Detecting Welfare Fraud with Gary Johnson, Principal Auditor, Minnesota Department of Human Services, leads a discussion about the process used to conduct an investigation of digital evidence.

Credibility with Professor Gregory Ogden, Pepperdine University School of Law, considers demeanor evidence in determining credibility of witnesses in the fact-finding process.

Due Process with Professor William R. Andersen discusses the theoretical foundations of the administrative hearing.

Ethics with Professor Gregory Ogden explores and examines ethical issues and dilemmas commonly faced by hearings officials in the administrative process.

Evaluating Evidence with Edward Toussaint, Jr., Chief Judge, Minnesota Court of Appeals, examines what weight do we or should we give to sworn or unsworn statements, agency documents, medical reports, employer printouts and hearsay testimony.

History of Administrative Due Process with Steven Moon, Administrative Appeals Referee, Minnesota Department of Human Services, offers a historical review of the evolution of the administrative due process.

Judicial Decision-Making: Subjective, Objective or Both? With Kathleen Gearin, Judge, 2nd Judicial District of Minnesota, provides insight into how judicial officers reach decisions, including factors that influence decision-making, the effect of personal values, and practical steps to ensure good decision making.

Justice Versus Prejudice and You with Laurence H. Geller, Administrative Law Judge, California Department of

Social Services, explores in a provocative manner of our system of justice and the role prejudice plays in it.

Recent Administrative Law Development with Richard Murphy, Professor, William Mitchell College of Law, reviews a selection of recent administrative law cases of note from the federal courts.

To order go to the website: www.naho.org.

Ft. Worth Conference 2004

That's right. The NAHO conference will be in Ft. Worth, Texas in the fall of 2004 (October 17th through 20th). It's truly a great city for a conference, offering an amazing mix of Western heritage, fine arts, and family-friendly attractions. Besides learning to finetune your skills in administrative hearings at the sessions, in your spare time you can see cowboys using their roping skills at a local rodeo or at the daily cattle drive in the Stockyards.

The Radisson Hotel, a national historic site located in downtown Ft. Worth, is the conference site. Many local attractions are within short walking distance or can be reached by a brief trolley ride.

Information about the conference site, conference theme, and the session topics will be published on the NAHO website.

Send Your Donation

If you need to take an extra deduction on your taxes, please consider a contribution to NAHO, our nonprofit organization. You can designate what your contribution is to be applied to (scholarships, videotaping, etc.). A receipt will be provided for tax purposes. Send you donation to the NAHO Treasurer:

Maria Ortiz-Mayer, CHO
NAHO Treasurer
P.O. Box 367
Louisville, KY 40201

From the President

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President Susan LaRose also recently retired in Connecticut, and our longtime newsletter editor and energetic conference workshop instructor, Larry Geller from California, will be retiring in February 2004. There are many others who graciously stepped aside after contributing to NAHO, in order to let others have an opportunity to serve. We are grateful for their generous gifts of service.

Looking ahead, we may be assured that we are in good hands. Our new president Ellen Anderson from Olympia, Washington, is a highly capable individual, and she brings a fresh and new set of skills to lead NAHO. She and the other recently inducted officers will need the support and encouragement of many persons to assist our organization in continuing to thrive.

In conclusion, my thoughts turn to the ancient and continually present need for justice. Much has been written and spoken within the NAHO neighborhood about this fundamental topic. Recently, our colleagues focused attention on the inequities of man's justice system and the attendant constant necessity to be vigilant in pursuing justice. As we seize the daily opportunities in our lives to do justice, we can be confident that with some individuals we will make a lasting difference in their lives. I believe we also may be secure in the knowledge that rightly motivated efforts to secure justice have enduring value.

It is said that ideals are like the stars – we never reach them, but we set our course by them. Similarly, we may never achieve perfect justice, but that fact should not stop us from continually seeking it. The work of justice can be marked by solitude, and your co-workers in this endeavor may at times appear to be few in number. That is one of many good reasons for joining NAHO and contributing to our efforts. My wish is that you always prize justice and that you diligently proclaim it in your life and work.

Thank you for giving me the opportunity to serve, and thanks to all persons who have supported me and shared in my journey for justice thus far.

**NAHO wishes you a
healthy and happy
New Year**

Did You Write This?

In response to Question #9 (Should NAHO have a role supporting its members in dealing with the stressful labor relations issues in the 21st century?) on the Conference Evaluation form you wrote:

“Can management question an ALJ’s recusal from a case?”

“Can management refuse travel reimbursement based on the ALJ’s decision to travel or spend the night when conducting out of town hearings?”

NAHO is interested in exploring these issues further. Please contact LeAnn Abbott at LAbbott@fssa.state.in.us. We would like you to expand on these very relevant issues. Thank you!

Justice vs. Prejudice and You

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and reduce their almost unconscious intrusion into our decision-making and conduct. Larry urged us to keep in mind that "impartial" justice depends on our own best efforts to always be truly even-handed in our decisions and hearings, as free as possible from the effects of the prejudicial ideas and life experiences *we ourselves bring with us*.

NAHO News Goes WEB

With this issue, the NAHO Newsletter will now be available through our website, www.naho.org with copies being e-mailed to each member. If you are not a member and would like to receive a copy, please contact LeAnn Abbott at LAbbott@fssa.state.in.us and provide your e-mail address.

Better Together

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with other members of NAHO. A crucial goal of our organization is to help each hearing official, not only through resources and education, but by providing special opportunities for comradeship in this challenging profession.