NATIONAL ASSOCIATION OF HEARING OFFICIALS

JANUARY 2020

2019 ANNUAL MEMBERSHIP MEETING

Janice B. Deshais (CT)

Call to Order

The annual meeting of the NAHO membership was held on Tuesday, November 5, 2019, at the annual Conference. President Janice Deshais called the meeting to order at 8:30 AM, and introduced herself and the current Board members who were present. She noted that this would be her last meeting as President and thanked the Board members and others involved with NAHO for making her four years as President so enjoyable and productive.

Deshais clarified that votes could be taken at this annual meeting by a majority vote of members in attendance.

2018 Annual Membership Meeting Minutes

Jo Murphy, NAHO Secretary, presented the minutes of the 2018 membership meeting held on September 11, 2018,in San Diego. The minutes were approved, and are available on the NAHO website at www.naho.org.

President's Report

Deshais outlined ongoing efforts, projects, and goals of the NAHO Board.

 NAHO continues to do its best to keep the website updated and to make continuous improvements to the site. NAHO hopes the site is user friendly, has more accessible resources for members, and provides information for all who are interested in NAHO and its conferences.

- Thanks to the efforts of Bobbie Marshall, NAHO is an increasingly active social media presence that provides news and information about NAHO and matters related to the work of its members. Members should "like" and share postings to help keep NAHO in the news and reach new audiences and potential members.
- NAHO is improving its services to members, such as the increased availability of updated materials in the library, including videos that will be available soon of classes from this Conference; easing the registration process for conferences; and working to make conferences as relevant and informative as possible for its members and others involved in the administrative hearing process. NAHO is always trying to reach out to more members and those who are part of the world of administrative hearings. Members who might not be on the Board can serve on a committee, work on a project, or help at a conference.
- The final phase of the changes to the certification program took effect on January 1, 2019. This important project was based on the desire to make the certification program more "meaningful" and enhance the credential of certification. The program information on the website has also been revised to more clearly set out the process and the application process,

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PRESIDING WOMEN:

Problems and Issues Faced by Female Hearing Officials

Janice B. Deshais (CT); with Linda J. Snow (TX)

uring a break at last year's conference, a group of women and I were discussing the issues and problems we may face as women in this profession. The longer the conversation went on, the more it became clear that this is a topic on which many women have thoughts and experiences and which would be a great subject for a session at this year's conference.

I began planning for an interactive "class" for women (and men) about the challenges female hearing officials encounter in their professional lives. I thought about situations I had encountered in my career (particularly as a young woman) and how I had handled them and soon had a list of topics that I thought could be discussed. I did a bit of research (see below) and added to that list. I then asked Linda Snow, another experienced female hearing official, to join me in leading this session. She agreed this is a worthwhile topic and, as long as this would be more than a "sound off" session, agreed to participate.

This course was a lively discussion of the issues female hearing officials may face while adjudicating matters before them when working with male and female colleagues. The discussion focused on difficulties

encountered when maintaining control of a hearing and its participants, including attorneys who call female officers "little lady," challenge their credentials or address them by their first name. Other challenges in and out of the hearing room included recognition of a hearing officer's education, respect for their position, and acknowledgement of the legitimacy of their experience and past decisions.

Because the focus of this session was finding solutions that could work to address the obstacles faced by female hearing officials, Linda and I led the presentation of solutions for these problems. The discussion produced several topics: use of a conservative dress code (with some in favor and some strenuously opposed); use of "blind" peer reviews; setting and enforcing rules for a hearing, including how the hearing officer is to be addressed during that hearing; and requiring participants to follow rules of conduct. Other ideas to address the problem were discussed during the hour, but it was generally agreed that resolution of the many aspects of this issue is a great challenge. We were only able to scratch the surface in our hour-long session, which suggests this topic should continue to be addressed in another session.

Ideas and more information on issues faced by female hearing officials can be found in the following references that were provided for the session.

Being a Woman, Being a Lawyer and Being a Human Being–Woman and Change, http://ir.lawnet.fordham.edu/flr/vol57/iss6/4.

Debate on Whether Female Judges Decide Differently Arises Anew, https://www.nytimes.com/2009/06/04/us/politics/04women.html.

Eliminating Sex Discrimination in the Legal Profession: The Key to Widespread Social Reform, http://www.repository.law.indiana.edu/ilj/vol67/iss3/8.

Making Strides Towards Gender Equality in the Legal Profession, https://www.americanbar.org/groups/ business_law/publications/committee newsletters/bcl/2019/201902/fa_7/.

Women and the Legal Profession: Four Common Obstacles Faced by Female Lawyers, https://ms-jd.org/blog/article/women-and-the-legal-profession-four-common-obstacles-faced-by-female-lawyer.

A search on www.google.com will result in many other articles on this topic.



FROM THE EDITOR

OPEN THE DOOR: What You Need Might Just Be There

Bonny Fetch (ND)

ave you ever felt unsettled, incomplete, you know something is missing but you're not sure what it is? And even if we can identify what is missing in



Bonny Fetch (ND)

our life, it can be daunting to take the steps needed to fill whatever might be lacking. I think that must be a universal experience, one which happens to all of us from time to time. Here is what happened to me recently, and I will tell you the ending upfront...I am glad I opened the door.

Those who know me at all know that dogs, big dogs, have always been an integral part of my life. I love animals of all kinds, but above all else, dogs. For 47 years dogs were my chosen companions. Brandy was the first, a golden lab; then came Kodi, a German shepherd; Shilo, a chocolate lab; MacKenzie, a golden lab; Scout, a Newfoundland lab; and Madison (Maddie), a golden lab. All lived long lives, but not nearly long enough for me. Maddie was the last, and when I lost her on March 11. 2019, I thought my broken heart might never heal. Over the ensuing months, I no longer had large vet bills, and my house was very tidy without the disarray of pet dishes, toys, blankets, leashes, and other sundry pet things, and I found I didn't need to vacuum as often. But I knew something very important was missing.

The first part of October I was just beginning to recognize that I really needed another little animal spirit in my house, thinking of a dog, of course, a lab puppy or maybe a middle-aged rescue dog. As it turned out, a small tomcat appeared at my

front door on October 11, in the middle of an early blizzard. He had been around outside since about April, but too scared to allow anyone to come close. But on this bitter cold night, there he was, shivering in the snow. I could see he was injured, he had an open wound on his head, his left eye was swollen shut, and it looked like a gash on his throat. I knew he would probably not last through the blizzard. I opened the door and stood aside, and invited him in, saying, "It's up to you, but if I were you, I'd come in." He was hesitant, but perhaps it was his misery that won out and he scooted in. Three months and several vet visits later, Tommy is healthy, active, mischievous, very sweet, and comfortable in his new home. Amazing how much love a pet can bring. But sometimes I wonder...how would Tommy react to a puppy...or an older dog...hmmm.



Whatever you feel might be missing in your life, I encourage you to open doors until you find what you need, whether it be something major such as a change of job or location, a vacation, remodeling your home, or something on a smaller scale such as planting a garden, a new hobby, volunteering, joining a yoga class (sorry, couldn't resist)...the list is infinite.

Right now, despite the myriad of cat toys scattered throughout the house, Tommy is happily playing with a burlap string which is tied to my chair, vying for my attention. He is letting me know I have been at this computer long enough...and guess what... he's right.

ELECTIONS:

New NAHO Officers and Regional Representatives

Janice Deshais (CT)

The NAHO By-Laws provide in Article V, Section 2 that the Nominating Committee shall conduct an election biennially to elect the four Officers and six Regional Representatives. I chaired this Committee, whose members must not be running for election or re-election. Linda Snow (TX), out-going NAHO Treasurer and Clayton Mansfield (PA), outgoing Northeast Region Representative, joined me on the Committee.

The election was conducted over the past summer and fall, and the Committee certified the results at the Board meeting on Sunday, November 3, 2019. The following were elected to serve a two-year term from January 1, 2020 to December 31, 2021.

Toni Boone (OR), President Toni has served as Vice-President and Conference Chair of NAHO since 2016. She served as an ALJ for over 30 years, conducting hearings for the states of Arkansas and Nevada. In 2000, she began teaching other judges when she was selected to join the adjunct faculty of the National Judicial College (NJC). During her 20-year tenure with NJC, she has taught over 100 different NJC courses, on NJC's Reno campus and across the U.S., for both administrative adjudicators and traffic court judges. She is on NJC's Faculty Council representing the Administrative Law faculty and is a past Chair of the Faculty Council. In 2009, she was certified as an ALJ through NAHO and was also elected to serve on NAHO's Board as the Western Region Representative. She is an alumna of the University of Arkansas where she was a Truman Scholar.

Peter Halbach (ND), Vice-President

Peter served on the NAHO Board for four years as Mountain Region Representative. He has a BA in Political Science from the University of Minnesota and

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MEMBER SPOTLIGHT



hich agency do you work for, how long have you been a Hearing Officer/ALJ, and what sort of hearings do you conduct?

I worked as a Hearing Officer for the Revenue Division of the Arkansas Department of Finance and Administration (DFA) for over 18 years. I traveled a four-county area of the Ozark Mountains with more than half a million residents, conducting hearings of various kinds and serving as a liaison between the municipal, district and circuit courts of the area and the Arkansas DFA. My base and "home office" was in my hometown of Fayetteville, home of the University of Arkansas and often ranked by Forbes and U.S. News as one of the top ten mid-sized U.S. towns in which to live. Among the other towns in which I conducted hearings were Bentonville (home of the world's largest retailer, Walmart) and the popular Ozarks resort town stuck seemingly stuck in the 1880s, Eureka Springs. In each town, I had either a field office or conducted my hearings in the municipal courtroom on a day when court was not

TONI BOONE

NAHO President

Hearing Officer, Revenue Division, Arkansas Department of Finance and Administration (Retired)

in session. With 14 hearings scheduled for each day, my workload was larger than that of any two hearing officers in the state combined. In addition, I was completely on my own with no secretary, calendar clerk and no one but me to answer the constantly-ringing phone. I was also required to conduct "walk-in" hearings for anyone that was in need of a hearing in addition to my scheduled cases. Because my district had both J. B. Hunt trucking headquarters and Walmart headquarters within its borders, I conducted a great many hearings for commercial motor vehicle drivers. The Federal Motor Vehicle Safety Act became law about the time I began as a hearing officer and I was well-versed in the driving behavior that would force commercial drivers into an involuntary career change.

An additional duty in my job description was the task of teaching what were then known as "defensive driving classes" for four hours every Thursday morning. We now commonly refer to these classes as "traffic school." The persons filling these classes, both then and now, are there because a court agreed to withhold a conviction for a traffic violation from their driving record if they completed the class. Although the classes were held in large

public-meeting rooms, they were usually full. Prior to becoming a hearing officer I'd been a police officer for ten years. Eight and a half of those ten years had been with the Highway Patrol division of the Arkansas State Police, so I relished the opportunity to teach these folks the errors of their driving ways. I was approached by trucking companies and utility companies to devise a special "defensive driving class" covering the errant driving behavior that would get the "big rig" drivers in trouble with the law, their employers and their insurance companies. Because I was a hearing officer for the same four-county regions as the "Troop" I'd worked in for the Highway Patrol division, most police officers, EMTs and firefighters knew me either personally or by reputation. They approached me and asked me if I could create a "defensive driving course" specifically for the drivers of emergency vehicles, which I did. Thus, my Thursdays became even busier with a variety of defensive driving classes. It was in these classes that I became comfortable with public speaking, honed my skills as a teacher and began to learn how to create course content that would be beneficial to specific groups of adult learners.

I loved all the work required of me but I was quickly head-

ing for burnout. I heard about this place that had training for judges of all kinds, including administrative adjudicators. It was called the National Judicial College (NJC). The NJC had a two-week course for administrative adjudicators. I contacted my immediate supervisor, in Little Rock, and asked if I could take the course. The agency would give me the two weeks of administrative leave to take the course, but I had to pay the tuition myself. I gladly paid the tuition, looking forward to two weeks away from the job pressure that would not result in the low of two weeks of vacation. That class changed my professional life. In that two weeks, I learned more than I'd learned in 14 years of conducting hearings and more than all the in-service training I'd received from the state and other sources. In addition, I found out about NAHO. In that class of about 85 hearing officers were four NAHO members—Tom Burkizer of South Carolina, David Baumann and Mark Richmond from Idaho, and Marcelo "Vince" Vincent from Wyoming.

A year after taking the National Judicial College class, the NJC asked me back, at their expense, to be discussion facilitator/faculty assistant.

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which has been enhanced by personal interviews by the Certification Committee of applicants for certification and re-certification about their work and general knowledge of the administrative hearing process.

 NAHO's officers and all its committees, who will present reports at this meeting, work to sustain and improve NAHO. They are to be thanked for their dedication and service.

Deshais announced that the Board held its annual meeting on Sunday November 3, where the biennial election results were certified to the Board by the Election Committee. Deshais chaired this Committee; members were Linda Snow (TX) and Clayton Mansfield (PA).

The following candidates for Officers and Regional Representatives were elected and will serve a two-year term from January 1, 2020, through December 31, 2021.

President - Toni Boone (OR)

Vice President - Peter Halbach (ND)

Secretary - Colleen Ulrich (GA)

Treasurer - Cyndy Antrim Rutledge (GA)

Central Region Representative – Dwain Fagerlund (MN)

Mountain Region Representative – Sarah Huber (ND)

Northeast Region Representative – Mary Long (PA)

Southeast Region Representative – Richard Murrell (TN)

Southwest Region Representative – Bobbie Marshall (TX)

Western Region Representative – Marilyn Slifman (CA)

Deshais then administered the oath of office to those new Officers and Representatives present; those not present will take their oaths at the first Board meeting in 2020.

Vice President's Report

Toni Boone (OR) reported on the final aspects of the 2019 Conference, such as registration numbers, merchandising, and scheduling details. She also discussed the 2020 Conference to be held in the East at the Element Hotel in Philadelphia. Toni announced that NAHO has been invited by the National Judicial College to hold its 2021 conference at their campus in Reno, Nevada. She noted the benefits of this location, but said no final decision has been made. She noted several cities being considered for the 2022 conference in the Midwest are Omaha, Des Moines, Chicago and Kansas City. Toni asked members to include location preferences and suggestions in the post-conference online evaluation.

Treasurer's Report

Linda Snow presented the annual treasurer's report, including the operational budget and the monthly reports of income and expenses. She reported that NAHO continues to maintain a stable account balance throughout the year of approximately \$50,000. Linda opined that NAHO's financial status is good, particularly for an organization of this size. There were a few comments on her report. The report was approved by the membership.

<u>Standing Committee Reports</u> • <u>Membership</u> – Kayla Adams (TX),

- Membership Kayla Adams (TX), Representative for the Southwest Region and Chair of the Membership Committee, was not in attendance, so Janice Deshais presented her report. Current membership was reported as 299 active members; membership fees are due on January 1, 2020. Membership is for a calendar year.
- Certification Jimmy Stokes (GA), Chair, provided the report. Other Committee members are Richard Murrell (TN), Ben Brauer (MD), Robert Pullen-Miles (CA), and Michelle Guilfoyle-Douglass (FL). Newly certified in 2019 were Marilyn Slifman (CHO) and Jocelyn Weston (CHO); re-certifications were approved for Toni Boone (CALJ), David Bruzga (CHO), Bonny Fetch (CALJ),

Catherine L. Guedalia (CHO), Heyward Hinton (CHO), Kay N. Hutson (CHO), Lorinna Metro (CHO), Richard Murrell (CALJ), Kathleen L. Nadobny (CHO), Jacqueline Naves (CHO), Robin Walker (CHO), and Deon R. Willform (CHO).

Ad Hoc Committee Reports

- Continuing Education and Training

 Clayton Mansfield (PA), Committee
 Chair, explained the NAHO library and
 how to request materials (stored digitally
 on Vimeo). He said a list of available videos was in attendees' registration packets.
 Clayton also noted that new classes had
 been filmed in 2018 and this year to replace old titles and provide some classes
 that were not available before.
- Communications/Technology Clayton, also chair of this Committee, reported that the NAHO website is maintained and updated by Board members who are the administrators of the site. He announced that in 2020, NAHO will add additional information to the Membership Directory to facilitate networking among its members.
- Communications Reporting for Bobbie Marshall, Janice Deshais said that NAHO had increased its social media presence the past year. NAHO is now on LinkedIn, in addition to Facebook and Twitter. Deshais, who assists Bonny Fetch, the editor of NAHO News, said that a post-conference edition of the newsletter will be issued early next year and said photographs of the Conference and any ideas for future newsletters could be forwarded to her at Janice.deshais@naho.org.
- Merchandise Toni Boone, who chairs this Committee, reported on the new merchandise and bargain merchandise that was available at the Conference. She thanked Sarah Huber for her design of the New Orleans t-shirt.

There being no further business, the meeting was adjourned until next year's annual membership meeting in Philadelphia in September, 2020.

ELECTIONS:

New NAHO Officers and Regional Representatives

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a JD from the William Mitchell College of Law. A Hearing Officer for the Department of Transportation since 2003, as well as a Municipal Judge since 2002, he was designated Chief Hearing Officer in 2015. After working for the Minnesota Attorney General's Office for five years, he entered private practice in North Dakota in 1988, and served many years as a part-time prosecutor and as an adjunct college instructor in paralegal and peace officer training programs. He joined NAHO in 2006 and became a NAHO Certified Hearing Official in 2011.

Colleen Ulrich (GA), Secretary

Colleen has been a member of NAHO since 2016. She is a former classroom teacher and middle school Assistant Principal and has served as an educational disciplinary Hearing Officer for the past ten years for Gwinnett County Public Schools in Georgia. As the Assistant Director of the Office of Student Discipline and Behavioral Intervention, Colleen trains new hearing officers and school administrators. Colleen holds education and leadership degrees from Georgia State and Brenau University. She earned her Educational Specialist degree from Lincoln Memorial University. Colleen received her NAHO certification in 2016.

Cindy Antrim Rutledge (GA), Treasurer

Cindy has been a member of NAHO since 2013. She is a former elementary, middle, and high school teacher, served as Principal for twenty-seven years and a Hearing Officer for over thirty years with Gwinnett County Public Schools. Cindy retired from the school system but continues to work as a Hearing Officer and Principal Mentor with Gwinnett. Cindy is an adjunct professor for two universities in leadership development. She has earned her Educational Specialist degree from Georgia State University. Cindy and received her NAHO certification in 2013.

Dwain Fagerlund (MN), Central Region Representative

Dwain has been a hearing officer for the North Dakota Dept. of Transportation since 2006. Dwain lives in Minnesota, but is pleased to represent the interests of the Central Region on the NAHO Board. A member of the Advisory Council to the ND Office of Administrative Hearings, Dwain graduated from the University of North Dakota, School of Law, where he was Articles Editor for the North Dakota Law Review. Dwain spent 15 years in private practice, where he had a civil litigation / general practice. Dwain, who has been a NAHO member since 2011, is a civil mediator and arbitrator in North Dakota and Minnesota.

Sarah Huber (ND), Mountain Region Representative

Sarah was re-elected as Mountain Region Representative. Sarah obtained her B.A. in Social Work from Creighton University in Omaha in 2005 and went on to work in youth rehabilitation programs in Nebraska, Utah, Colorado and Idaho. In 2009, she returned to Omaha to study law at Creighton, practicing as a senior-certified attorney in its small business and civil litigation legal clinics, and obtained her J.D. in 2012. After law school, Sarah moved to Bismarck, North Dakota, and became an administrative hearing officer with the North Dakota Department of Transportation where her work includes hearings regarding driver's licenses. She has been a member of NAHO since 2013.

Mary Long (PA), Northeast Region Representativ

Mary has served as an Administrative Law Judge for the Pennsylvania Public Utility Commission since 2010. She presides over hearings involving consumer disputes, enforcement, rate proceedings and other matters involving state-regulated public utilities. She has served the Commonwealth of Pennsylvania as counsel to the Chair of the Pennsylvania Environmental Hearing Board and as a law clerk to the Honorable Joseph T. Doyle of the Pennsylvania Commonwealth Court. Mary is a graduate of the Widener University Commonwealth Law School and the University of Pittsburgh. A member of NAHO, Mary is a resident of Pittsburgh.

Richard Murrell (TN), Southeast Region Representative

Richard holds a J.D. from University of Memphis and a B.A. from Harding University. He was in private practice for 18 years before serving as Assistant Attorney with the Tennessee Attorney General's Office. In 2005, he joined the Workers' Compensation Bureau, serving as an Administrative Judge and Director of Quality Assurance. In 2018, he was appointed as an Administrative Judge with the Office of the Secretary of State Administrative Procedures Division. He is a trained mediator and has been trained to hear Individuals with Disabilities Educational Improvement Act cases. He was NAHO-certified as an ALJ in 2013.

Bobbie Marshall (TX), Southwest Region Representative

Bobbie served as the Board's Member at Large before being elected as regional representative. She is a Lead Hearings Officer for the Texas Health and Human Services Commission, where she conducts hearings on complex programs, such as Medicaid cases involving children under age 21. She mentors new hearings officers and completes case readings. She has held positions as a Texas Works Clerk, Texas Works Advisor, Department of Aging and Disability Community Care Worker, and Department of Family and Protective Services Case Worker. Bobbie is a graduate of Texas Tech University and joined NAHO in 2015.

Marilyn Slifman (CA), Western Region Representative

Marilyn has been an attorney in private practice in California for over 40 years, where she actively practiced for 37 years and is now a consultant attorney. She was appointed as an administrative hearing officer for Orange County, California in 2015, where she continues to serve part time hearing cases for Orange County Animal Care and hears post-seizure animal cruelty appeals. Marilyn is a graduate of Golden West College and received her juris doctorate from Western State University. She has been a NAHO member since 2017 and received her NAHO certification in 2018.

Congratulations to all! NAHO is as strong as its Officers and Regional Representatives – may we continue to have much success in the years to come.

MEMBER SPOTLIGHT: TONI BOONE From page 4.

For those who may not be aware of it, the NJC has an all-volunteer faculty of sitting and retired judges who teach, without compensation, every subject imaginable that any type of judge might need in seminars all over the country that last from a couple of days to a couple of weeks. At the conclusion of the two weeks as a discussion facilitator/faculty assistant, I was asked if I would be interested in joining the faculty of the National Judicial College. I was very flattered and very interested. I began teaching NJC classes of limited and general jurisdiction traffic court judges that were funded by National Highway Traffic Safety Administration and by Federal Motor Carrier Safety Administration in 2000 and began teaching Administrative Law classes for administrative adjudicators in 2001. I continued working as an Arkansas hearing officer and occasionally teaching at the NJC until I realized that my 18 years as a hearing officer and ten years as a police officer entitled me to retire and start drawing my pension. Thus, in 2003, at the age of 49, I made plans to retire from the State of Arkansas. My plan was to move to another state and work, as a hearing officer or ALJ, long enough to draw a second pension. While teaching a class at the National Judicial College, I casually mentioned that I was about to retire and relocate. After making that announcement, I received job offers from several states but chose to accept a job as an Administrative Law Judge with the Nevada Department of Motor Vehicles in Las Vegas. The hillbilly from the Bible Belt was on her way to Sodom and Gomorrah.

As an Administrative Law Judge for the State of Nevada, I conducted a much more diverse variety of hearings. About 40% of my docket involved lengthy hearings comprising complex issues and resulting in six or seven figure monetary penalties or in the revocation of a business license that would impact the livelihood of one or more persons. It was more interesting work, my docket was not so demanding, and my Chief Judge supported my continued teaching at the National Judicial College and my involvement in NAHO. I served in this capacity for over eleven years before

retiring all over again in 2014.

I do not feel retired. I still teach frequently at the NJC and it allows me the opportunity to promote NAHO to groups of administrative adjudicators that fill my classes. The work I do for NAHO can be very time-consuming. I do something related to NAHO every day. There are always questions to be answered, plans to be made and emails that need replies. The website needs regular updating and conference planning goes on year round. Just the planning of the conference curriculum and finding the instructors can be very time consuming. In addition, I teach at each NAHO conference which entails even more work in addition to my prescribed duties as NAHO president.

What was your favorite part of your job? What part did you find the most challenging?

Definitely, the most challenging part of the job was handling the workload I had in Arkansas. When I retired and left Arkansas, the DFA had to hire three hearing officers to competently cover the number of cases that I had been handling alone.

My favorite part of the job was "the people who came back." Months or years after they had no need of a hearing or any other assistance from me, people upon whom I'd imposed pretty harsh sanctions returned to let me know that they had made positive changes in their lives and to thank me for my part in setting them on the right road. I had many, many repeat offenders—people who were always in danger of driver's license revocation for driving under the influence of drugs or alcohol, street racing, reckless driving, etc. Some were repeat offenders because they were substance abusers and had an addiction to overcome. Others were just "hard-headed" and unaccustomed to having someone actually hold them accountable for their behavior. To bring about behavioral changes, it was necessary that the promised punishment be administered with a polite, patient, pragmatic and persistent approach. Most of the time, I never knew if I had any impact. But

over the years there were many times when someone I wasn't expecting was sitting in the back of my hearing room, waiting until a hearing concluded in order to see me. Often, I didn't recognize them because their appearance had changed (improved) so much. They'd reintroduce themselves and tell me they were working regularly at a good job, they were back with their families, they had a clean driving record once again, etc. Sometimes they would ask to shake my hand or to give me a hug with tears in their eyes. Sometimes they'd ask me if I'd come to an Alcoholic Anonymous or Narcotics Anonymous meeting to be the person who presented them with their one-year, two-year or three-year medallion for sobriety. At other times, I'd get a nice letter or Christmas card. These moments, though comparatively rare, made all the stress and the overwhelming workload meaningful.

What is the best piece of advice you ever received, and how did it help you in your profession?

"Be careful of the words you say. Keep them soft and sweet. You never know, from day to day, which ones you'll have to eat." This advice will help in any profession but it is particularly useful when working for and with bureaucracies like state and federal government agencies.

What do you most like to do in your personal life?

My husband and I own a second home back in "my old stomping ground" of the northwest-Arkansas Ozarks. It is somewhat remote and very peaceful there. It is on a hill overlooking Beaver Lake. The lake's shore is around 600 feet from our back door. We love spending time there and encourage our family members and friends to join us there at our "Ozarks Retreat."

How long have you been a member of NAHO?

I can't remember the exact year I became a NAHO member but I have been a very active member of NAHO since the first conference I was able to attend, which was in 2009.

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MEMBER SPOTLIGHT: TONI BOONE From page 7.

As incoming President, what do you hope to accomplish for NAHO?

The chief benefit of NAHO has always been the annual Professional Development Conference and this will remain the case. However, NAHO needs to maintain closer connections to its membership, and provide more benefits to its membership, year-round. The Board is still in the discussion stage regarding how this might be accomplished. Among the ideas under consideration are:

- At least one free nationwide, educational webinar that all NAHO members may access via computer each year. This webinar would be 60 to 90 minutes in length with the first webinar anticipated in the Spring of 2021.
- Periodic podcasts that NAHO members

can access via Social Media.

- Development of NAHO's "Sections" so that members can maintain closer communication with other memberadjudicators who conduct the same type of hearings they conduct.
- One two-page article in each NAHO News edition that provides practical information useful to adjudicators in an easy-to-read bullet-point format so that members can print the article on onedouble sided page and add it to a binder that will serve as their "bench book" of hearing procedures and techniques.
- Either modify the format of the NAHO News so that it is briefer, more practical, and comes out every three months, or have an additional briefer newsletter, in

addition to the NAHO News, that contains useful articles like summaries of recent appellate decisions of administrative law cases and/or other interesting or informative news related to the work

Is there anything else you wish to add?

of administrative adjudicators.

My efforts will be focused on making the National Association of Hearing Officials a more well-known, accessible, nationwide, vear-round resource that benefits administrative adjudicators, provides support for the important work that they do and encourages respect for the Rule of Law and the rights of the petitioners in administrative hearings. Toward that end, I encourage any member to contact me with ideas or suggestions at Toni.Boone@ NAHO.org.

MEMBER SPOTLIGHT



hich agency do you work for, how long have you been a Hearing Officer/ALJ, and what sort of hearings do vou conduct?

I have been a Hearing Officer with the North Dakota Department of Transportation since 2003 and, since 2015, have been designated the Chief Hearing Officer. We have eight hearing officers,

PETER HALBACH

NAHO Vice-President Hearing Officer, North Dakota Department of Transportation

including three full-time hearing officers who travel throughout the state and five contract hearing officers, conducting hearings in person and by telephone. Most of the hearings involve proposed suspensions or revocations for impaired driving under our state's Implied Consent law, though we also handle hearings dealing with other withdrawals of driving privileges by the Driver's License Division, including commercial driving privileges, for a variety of other reasons. In addition, we hold a small number of hearings for the Motor Vehicle Division which may involve matters such as vehicle title

cancellations, used car dealer licensing, and International Fuel Tax Audits. I have also served my community as the Municipal Judge since 2002 and from time to time as an alternate judge for other communities.

What is your favorite part of your job? What part do you find the most challenging?

I very much enjoy teaching, especially topics related to administrative law and evidence. including at NAHO conferences. Analyzing statutes and rules, particularly evidentiary rules, is probably a favored part of my regular work.

Scheduling hearings within the tight time limits provided for under our statutes, including in person hearings across hundredths of miles, is probably the most consistent challenge, especially during the winter. On the other hand, an opportunity to get around our beautiful state can be a nice break from the office.

What is the best piece of advice you ever received, and how has it helped you in your profession?

A trial judge passed on to me when I was a young litigator what he had been told and found to be true during his

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MEMBER SPOTLIGHT: PETER HALBACH From page 8.

career, you learn more from the cases you lose than the cases you win. If you win, you may fool yourself into thinking you did everything right. When you lose, you think about what you can do better. The realization, win or lose, that I can always try to do better was important. As my dearly departed law partner used to say, in a similar vein at the end of a long day as he donned his hat, "Well I didn't get much done today, but I'll give it (heck) tomorrow."

What do you most like to do in your personal life?

My wife, Maren, and I are taking the opportunity to travel much more than we used to and I especially enjoy going to places I have long read about. Speaking of reading, I enjoy history and theology. The occasional espionage thriller is a nice change up. Now speaking of change ups, I follow baseball very closely, specifically Minnesota Twins baseball. It's a bonus if a Twins game is on the radio as I drive to or from hearings thoughout North Dakota.

Gradually, an interest in cooking has evolved for me and we enjoy cooking together. I've even caught myself switching between the game and America's Test Kitchen. Sharing creative endeavors, including painting, is



something we look forward to doing more of in the future.

How long have you been a member of NAHO?

I have been a member of NAHO since 2006, when the annual professional development conference was held in Bismarck. Finally, I was with an assembly of others who understood and appreciated the type of work I did, regardless of the types of hearings they did. That conference was vital to my development as a hearing officer. I came away from my very first conference with a renewed dedication to my career as a hearing officer, with a real sense of a vocation.

As incoming Vice-President, what do you hope to accomplish for NAHO?

Of course, I want to support our President, Toni Boone, and the rest of the Board and volunteers in continuing NAHO's tradition of providing valuable instruction at annual conferences and support to other members. We all search for meaning and finding at least a bit of it in our work can be especially rewarding. I want to give our members a sense that they matter and their work matters, a message we hope to share with a growing membership.

Is there anything else you wish to add? See you in Philadelphia! ♣

MINDFULNESS FOR HEARING OFFICIALS Presented at the 2019 Conference in New Orleans

Bonny Fetch (ND)

had the pleasure of teaching the class on mindfulness at the Conference this year. There is great interest in the concept these days. One can hardly pick up a magazine or any news publication without seeing some article about mindfulness, and it is seemingly everywhere online. Although relatively new to Western civilization, the concepts behind the practice of mindfulness date back thousands of years. The term mindfulness is rather vague, but may be best understood as an overall term for a range of contemplative practices that help one to become fully present in the moment, without judgment. When we practice mindfulness, we attune our thoughts to what we are sensing in the present moment, rather than rehashing the past or imagining the future.

Jon Kabat-Zinn, an American physician,

studied Buddhist meditation and adapted its precepts to develop a method to relieve stress and manage pain. His method is called Mindfulness-Based Stress Reduction (MBSR). His work in this regard is accepted by scientific and medical communities and MBSR is now offered by many hospitals and health organizations, and is a topic discussed in schools, workplaces, and public institutions.

There are some common misconceptions which need to be dispelled. First of all, mindfulness is not a religion or a religious practice. It is universal, not bound to a specific belief system. It is a type of training for the mind and anyone, regardless of one's belief systems, can develop and practice mindfulness. Secondly, mindfulness is not the same as meditation. Meditation is the

active process of encouraging stillness in the mind. Meditation incorporates mindfulness, and is certainly a positive element of mindfulness training.

Mindfulness has expanded beyond its original roots, and is becoming increasingly embraced by the legal profession. In this class, I cited two judges who outlined their reasons for using mindfulness practices. Judge Chris McAliley, U.S. Magistrate Judge, Southern District of Florida, says "I find it meaningful, in my work as a judge, as a means to focus on and enhance certain qualities important to judging. " She explained, "The practice encourages our open-minded awareness of what is happening before us. Courtrooms can be busy and distracting places, yet judges are expected to accurately perceive the argument

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MINDFULNESS FOR HEARING OFFICIALS From page 9.

of counsel, the testimony of witnesses, the behavior of jurors, and more. When we are distracted by other thoughts, this diminishes perception." She concludes, "Importantly, mindfulness practice is not about eliminating wise discernment; but it is about minimizing prejudgment. With this, judges can better deliver procedural fairness." (Mindfulness on the Bench, Florida Bar Journal, Vol. 90, No. 4, April 2016). Judge Don Ash, a circuit judge in Tennessee, a senior judge, and a member of The National Judicial College faculty, was initially skeptical when the Tennessee Judicial Conference focused on mindfulness, and "struggled to find just 10 minutes a day to simply be still and listen." But he became convinced to continue, noting that, "When I take advantage of my daily meditation I always learn something. A friend of mine told me last week that I seemed calmer." (See September 2019 issue of NAHO NEWS; Reflections from the Bench: I Am Trying to be a Lighthouse, Hon. Don Ash).

Pamela Casey, Principal Court Research Consultant, National Center for State Courts, noted that mindfulness research in organizations identified "several benefits, such as enhanced job performance, less susceptibility to cognitive biases, cognitive flexibility, creative problem solving, compassionate behavior, reduced stress and emotional exhaustion, and increased job satisfaction. It helps orient, stabilize, and sustain attention." Casey included several comments by judges. Quoting one judge, "there is no doubt that being mindful increases my capacity to better shape the law, maintain increased curiosity in my work, improve my focus, and engage in better decision making." Another judge commented that "mindfulness helps him be more present in case after case after case and to maintain a calmness in his reactions." Still another indicated that "mindfulness helped to center him and to see where his biases and prejudices might be hiding to keep them in check." Casey concludes that mindfulness is now an accepted practice which "can offer a low-cost, effective strategy for helping court professionals build resilience and agility in meeting the demands and challenges of the current work place." (Excerpt from Mindfulness and the Courts, by Pamela Casey, Principal Court

Research Consultant, National Center for State Courts.)

While it is necessary to have some fundamental information about mindfulness, my real focus was to provide practical applications of mindfulness, giving participants an opportunity to experience mindfulness in various ways. Two integral parts of mindfulness are learning to quiet one's monkey mind to stop mental chatter, and focus on the breath. Marelisa Fabrega wrote a very good article, "10 Ways to Tame Your Monkey Mind and Stop Mental Chatter." It can be found online with the 2019 Conference materials. Char Jung, one of my yoga colleagues, noted that "Being in the moment is the new 'doing' and in order to BE in the moment, you must first learn how to quiet the mind chatter." We covered Fabrega's ten ways to stop mental chatter in the class. Next, I taught the participants belly breathing, which sounds easy, but which takes full attention. It is a technique which must be practiced, but the results are enormous. Time and again my yoga students report to me the great advantages they have received from practicing focused breathing. Employing focused breathing, in order to help participants experience coming into stillness, I guided them in a body scan meditation. The additional benefit of this meditation allowed them to experience deep relaxation. And finally, there are innumerable mindfulness exercises for literally every activity, thoughts, and emotions. In the class, we practiced three, eating mindfully, a walking meditation, and mindful listening.

There was eager, active participation, a full room in the first hour and standing room only in the second hour of the class. My impression was that the participants enjoyed the class and came away with an understanding of what mindfulness is all about. It is my hope they will continue to learn more about it and practice it. If you have not taken a class on mindfulness, yoga, or meditation, I hope you will do so in the near future. You will find it life-changing. I will close with this thought from Jon Kabat-Zinn, "Is there any waking moment of your life that would not be richer and more alive for you if you were more fully awake while it was happening?"

CONFERENCE 2019: A Success by Any Measure

Toni Boone (OR)



NAHO's Annual Professional Development Conference for 2019 found us in "The Big Easy"—a city that is truly unique. Our attendees enjoyed the numerous pleasures and pursuits of New Orleans. Many attendees brought spouses or friends and stayed over to enjoy the city after the conference concluded.

The welcome reception on Sunday evening featured live music, great food and complimentary cocktails. The reception provides the first occasion for NAHO members to reconnect and network and they certainly took advantage of that opportunity.

The number of persons attending the conference this year was 132. Although a few attendees registered for only one day of class, the vast majority attended the entire conference. Based on comments and conference evaluations, attendees enjoyed the conference and found it to be beneficial to their work.

Our opening address was provided by NAHO Board Member Sarah Huber, a hearing officer from the North Dakota Department of Transportation. She related the story of her upbringing under the Fundamentalist Church of Jesus Christ of Latter-day Saints in the polygamist

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CONFERENCE OPENING ADDRESS: An Inspirational Story

Sarah Huber (ND)

This year's Conference began on Monday, November 4, with an opening address by Sarah Huber of North Dakota.

NAHO's Mountain Region Representative, Sarah is an administrative hearing officer with the North Dakota Department of Transportation. Sarah is also a graphic designer in her free time – she designed this year's colorful NAHO NOLA t-shirt!

Sarah's story of how she overcame powerful obstacles to obtain a life in which she was free to pursue an education and enjoy an unrestricted life – and help others in her situation to do the same -- was an inspiration to all who heard her speak.

Sarah has the following words to share...

peaking to NAHO during the annual conference was an incredible experience, and I enjoyed sharing my story with all those in attendance. As a quick recap, I was born into, and brought up in, one of the largest fundamentalist polygamist groups in the United States. My grandmothers (both biological and figurative) and mother fostered in me a love of learning. Once I became a teenager, I wanted to follow that love of learning through formal education—going to school rather than being taught what the sect believed I needed to know. At the age of fifteen, I ran away from my home and family, leaving behind everything I knew and was taken into the home of my legal guardians. This new couple and their daughter would become my family and my mentors, guiding and assisting me in learning about the wholly new, vastly expanded, and very different world that most people take for granted. Today, I want to remind you of some of the biggest lessons that I have learned along the way, and how they are applicable to what we do as Hearing Officers.

 See the goodness in the world around you. I know that it is

- particularly easy to acclimate and harden to some of the less happy things that surround us in our work. But remember that we, as humans, are all learning. While we may be interacting due to the choices of another individual that were, in so many words, less than optimal, everyone has the capacity and many do good things within their small interactions with the rest of the world. Look for those moments and choose to see the good of those individuals with whom you interact.
- 2) Do not worry about changing the whole world. Think about how much different a day can be if you can be the change that starts with one person; and then that one person reaches out to one other person, and so on, throughout the day. At the end of the day, your initial action may have been a difference in the lives of several others. Sometimes, that one small action may seem insignificant, but enough small actions over the course of the lifetime of one person may change the world.
- 3) Be Kind. This one is, in many ways, the hardest—especially in our careers where it is easy to fall back into the notions of professionalism and, perhaps, bit of detachment from the individuals we see during the course of our different processes and assignments. Kindness can be shown in so many ways. It can be as simple as taking just a few extra minutes



to really listen to individuals so that when you hand down a decision, they feel as though they have actually been heard. It can be taking a brief moment to allow someone to regain his or her composure; or taking a little more time to explain a process. I often try to think about the response I would like to receive if I were in the position of another individual, and then process the difference between my thoughts and what is happening to this person in order to find kindness—it is as simple as, "How would I like to be treated in this situation?"

Thank you so very much for taking the time to listen to me and to NAHO for the experience and privilege of speaking. I hope to see and or meet you all at the next conference.

HONORS LUNCHEON AWARDS

Janice B. Deshais (CT)

I was pleased to award the following at this year's Honors Luncheon.

The Bill Kane Board of Directors' Award – *Gregory L. Ogden*

Named for one of NAHO's past presidents, the Board of Directors chooses the recipient of this award that recognizes someone who has made unique and invaluable contributions to NAHO. This year's Bill Kane Award goes to Professor Gregory L. Ogden.

This valued member of the NAHO faculty has been a supporter and friend of NAHO for a long time. A professor of law, he is committed to teaching administrative hearing officers about the fundamental - and many specialized aspects - of administrative law. He has been part of the curriculum for many NAHO conferences and has served as a panelist for numerous presentations as someone with valuable perspective and knowledge.

Professor Ogden is described as "a real team player who is a joy to work with" and, "when it comes to providing instruction at NAHO Conferences, he prepares timely, complete and helpful materials for his classes." Lastly, "over the years, NAHO has benefitted greatly from Professor Ogden's unique expertise as a scholar in administrative law."

Conference attendees have benefited for many years from the wealth of knowledge and experienced teaching skills of this year's Bill Kane Award winner, Gregory L. Ogden, Professor of Law, Pepperdine University School of Law.

The Special Assistance Award – Christy Carver

This award is given to an individual to recognize their help in a specific area, and to distinguish the unique work they have performed for NAHO. This year's award recognized the essential assistance of NAHO's Registrar, Christy Carver.

Last year, NAHO decided to have all of its registration "on line," including "on site" at the Conference. Christy, who was suggested by the Marriott Hotel corporation as someone who could be of assistance, stepped into the job cold and learned all about NAHO and its



Recipients of Certificates of Appreciation at Honors Luncheon for their service as a Board member or for their service to the Board. Left to right: Jimmy Stokes (GA), Chairman of the Certification Committee, Bonny Fetch (ND), past President and Editor of NAHO News, Sarah Huber (ND), Mountain Region Representative, Richard Murrell (TN), Southeast Region Representative, Kelly Vargo (MN), Central Region Representative, Norman Patenaude (NH), Immediate Past President, Linda Snow (TX), Treasurer, Jo Murphy (TN), Secretary, Toni Boone (OR), Vice President, and Janice Deshais (CT), President.

new registration process only one day before the Conference was set to begin – over the phone from a contractor who had developed the new system. Christy then successfully served as Registrar. She was such an important part of the Conference that NAHO asked her to work again this year. Thankfully, she agreed.

From registration to the countless other task she performs with a smile throughout the Conference, Christy is an indispensable help. In recognition of her essential and unique assistance, I was pleased to present the 2019 Special Assistance Award to Christy Carver, Meetings and Special Events Manager, Ritz-Carlton Hotel, Laguna Beach, California.

The Outstanding Service Award – Bobbie Marshall

This award is given to someone who has consistently contributed above and beyond what is expected and who has made a lasting contribution to NAHO. This year, this award was given to Bobbie Marshall of TX. Bobbie could not be at the Conference this year, so the Award was sent to her right after the Conference.

Bobbie was awarded the 2018 Special Assistance Award for her unique and essential assistance as NAHO's social media wizard. This year, Bobbie's contribution to NAHO

has again been above and beyond what is expected. She has she increased NAHO's presence on additional social media platforms and has consistently posted for NAHO with enthusiasm. She has also stepped in on short notice to assist Secretary Jo Murphy by taking minutes of Board meetings. Bobbie has also updated the website on a regular basis with important changes and new information.

NAHO is pleased to recognize a dedicated Board member who provides outstanding service, Bobbie Marshall of Texas.

The President's Award - Jo Murphy

The President's Award recognizes someone who has provided special assistance or support to the President. This person, Jo Murphy, performs a thankless and onerous task and does it so well that I do not have to worry that this important job will not get done or be done well, as it can impact the success of a conference. This task is working with the conference hotel.

Jo does this job while also serving as NAHO Secretary. This means she: recommends a hotel to the Board; negotiates prices for essentials such as food and AV; arranges for a block of rooms for attendees; finds an overflow hotel if that block fills; worries if the room block does not fill; selects the food for events and

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HONORS LUNCHEON AWARDS From page 12.

meals and makes sure events run smoothly; prays that no natural disasters or travel restrictions will impact attendance; and handles the dozens of issues - big and small - that arise from hotel selection through completion of the Conference.

The grace with which Jo handles this important responsibility provided essential support to me as VP and as NAHO President. I was pleased to present the 2019 NAHO President's Award to Jo Murphy.

Truett R. DeMoisey Professionalism Award - Toni Boone

Named for one of NAHO's early presidents, Truett DeMoisey was a true friend and mentor to NAHO, and is remembered for his leadership. Truett was known for his dedication to NAHO, our profession, and his role as a mentor and leader.

This year's recipient is Toni Boone (OR). Toni possess all of the DeMoisey attributes I have just described. Toni has dedicated many years to teaching - at NAHO conferences, at the NJC, and at other forums too numerous to mention - thereby assuring that hearing officials receive the skills and knowledge necessary to provide a fair hearing process and uphold the principles of administrative law. Toni displays her devotion to the values of the law in everything she has done - and does - for NAHO and in her role as a mentor to so many. I have seen Toni provide a work product or complete a task under difficult and stressful situations and I have seen her persevere under circumstances that would flatten many of us.

Not the least of her many roles, NAHO would not be the organization it is without Toni's unwavering support, work and dedication. She has been VP and Conference Planner for the past 4 years (where she performs so many roles I simply could not list them all) and thankfully for NAHO - she will be the new President for at least the next 2 years.

I was pleased to present the Truett R. DeMoisey Professionalism Award to a truly deserving recipient – Toni Boone. 🖎

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community of Short Creek. The story of her escape from that community at age 15, then under the leadership of infamous polygamist Warren Jeffs, was poignant and inspirational.

This year's conference offered 48 sessions of instruction designed to enhance the professionalism of every administrative adjudicator in attendance. In addition, the conference featured a wellness component to help attendees learn techniques to reduce stress and restore balance and focus to their work-lives.



The keynote address was provided by the Honorable Karen Wells Roby, Chief U.S. Magistrate Judge of the Eastern District of Louisiana. Her lecture was humorous, warm and empathetic as she shared with us the difficulties of her job, many of which were very similar to our own. It was helpful and reassuring to know that federal judges, too, have trying situations that arise and that many of them, like Judge Roby, understand and appreciate the valuable role we play on the administrative side of the justice system.

The NAHO Board is already looking forward to the 2020 Annual Professional Development Conference in historic Philadelphia. Curriculum planning is already underway with an emphasis on providing instruction that will fulfill the needs of members working toward certification. Save the date for Conference 2020, September 20 through 23.

SEVERAL MEMBERS RECEIVE CERTIFICATION/ RECERTIFICATION

Janice Deshais (CT)

NAHO established its Certification program almost 25 years ago in order to develop uniform standards of excellence and professionalism for hearing officers and administrative law judges to enhance credibility of the administrative hearing process nationwide. Obtaining the credential of Certified Hearing Officer (CHO) or Certified Administrative Law Judge (CALJ) requires completion of hours of specialized training and experience in the administrative hearing process and is proof of commitment to the profession.

In order to be certified or recertified, applicants must complete a curriculum of core courses and training requirements and, as of January 1, 2019, be interviewed by a member of the Certification Committee about their work and fundamental concepts of the administrative hearing process.

Jimmy Stokes (GA), Chair of the Certification Committee, reported to the NAHO membership at its annual meeting in New Orleans that the following NAHO members were certified or recertified in 2019. Congratulations to all!

Certification

Marilyn Slifman (CHO) Jocelyn Weston (CHO)

Re-Certification

Toni Boone (CALJ) David Bruzga (CHO) Bonny Fetch (CALJ) Catherine L. Guedalia (CHO) Heyward Hinton (CHO) Kay N. Hutson (CHO) Lorinna Metro (CHO) Richard Murrell (CALJ) Kathleen L. Nadobny (CHO) Jacqueline Naves (CHO) Robin Walker (CHO) Deon R. Willform (CHO) 🖴