MEMO

To: Environmental Law Section Executive Committee
From: Doug Guevara, Senior Director of NYSBA CLE Department
Date: January 25, 2011
Re: Overview of CLE Department and Co-Sponsorship of CLE Programs with Environmental Law Section

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In response to email communications from Barry Kogut and the memorandum sent to me by the Environmental Section Executive Committee, I am providing a general overview of the mission of the CLE Department and co-sponsorship of CLE programs with NYSBA Sections. I think it is important for all NYSBA members to understand the organizational structure and the "mechanics" behind the various program formats. I specifically focus on webinar/webcast teleconferences since these were the formats raised by Barry Kogut in his emails. I look forward to meeting with you on Friday, January 28 to answer any questions you may have.

A. CLE Department Purposes and Policies (Excerpted from 2010 Section Leader's Handbook)

The responsibility of the Continuing Legal Education Department, as stated in the mission statement of the Committee on Continuing Legal Education, is to provide post-admission educational opportunities to members of the Bar by developing and sponsoring continuing legal education seminars, publications and other educational services and products. By providing seminars and publications to thousands of attorneys each year, the CLE Department plays a crucial role in NYSBA's stated purposes of elevating the standard of integrity, honor, professional skill and courtesy in the legal profession. A spirit of collegiality among the members of the Association is advanced for the thousands of individuals attending and speaking at CLE seminars.

Under a long-standing policy adopted by NYSBA's Executive Committee, "[t]he Committee on Continuing Legal Education has been given responsibility and authority to develop, conduct and coordinate statewide continuing legal education programs for the Association. Section and Committee participation in the continuing legal education program is deemed essential to its success. Sections and Committees, therefore, are encouraged to submit proposals to the Committee on Continuing Legal Education for specialized programs to be conducted at various locations throughout the state. If approved, such programs shall be presented under the joint sponsorship of the Section or Committee initiating the program and the Committee on Continuing Legal Education."

<u>Section and Committee Sponsorship and Co-Sponsorship of CLE programs</u>

In furtherance of the foregoing policies, Sections are permitted to do CLE in the following manner:

1) Co-sponsor the program with the CLE Department (this includes live programs, webinars and webcasts);

2) Provide a CLE program at the section's spring and fall meetings and at the annual meeting, in conjunction with the Meetings Department; and

3) Provide a brief CLE program (1-2 hrs) at section committee meetings, with accreditation through the Meetings Department.

Sections are not authorized to produce CLE programs on their own or in instances other than those listed above. Programs not falling into the above categories should be submitted as a proposal using the CLE Program Questionnaire (Attachment A) and addressed to the Director of the Continuing Legal Education Department, H. Douglas Guevara. Coordination of activities at Section midyear meetings or the Annual Meeting should be initiated with the Director of the Meetings Department, Kathleen Heider, 518-487-5500.

B. CLE Webinars/Webcasts (See Attachment B: General Information about NYSBA CLE Teleconferences, Webinars and Webcasts)

The CLE Department is the NYSBA entity accredited for all formats of CLE programming, while the Meetings Department is accredited only for live CLE programs. Due to the volume of demand from the various NYSBA Sections, there is a limit of two webinars **or** webcasts that can be accredited for each Section per 6 month CLE Session. Ideally, the subject matter of the proposed webcast/webinar should be of interest to a broad-based legal audience. Finally, for all programs co-sponsored with the CLE Department, a member/non-member registration fee is charged and all net proceeds from these programs accrue to the Association to cover annual administrative expenses.

The contact person for the Environmental Law Section to schedule webinar/webcast programs co-sponsored with the CLE Department is Doug Guevara (dguevara@nysba.org; 518-827-5580) or his assistant Linda Staub (lstaub@nysba.org; 518-827-5581). A completed Program Questionnaire (see Attachment A) for the webinar/webcast needs to be submitted before any program dates can confirmed.

The Section can also schedule "brown bag" webinars or webcasts for its members without MCLE accreditation. These requests are handled by the Section's Staff Liaison, Linda Bataille (lbataille@nysba.org; 518-487-5680) who can inform you of the lead time for submission of requests. For a webinar/webcast, the total program time should not exceed 2 hours.

C. Questions submitted by Barry Kogut
Answers prepared by Kathy Suchocki, Program Attorney, CLE Department
Contact: ksuchocki@nysba.org; 518-487-5590.

i. Webinars/Webcasts

For Webinar/teleconferences, speakers can be anywhere and do not need to be in the same location to present. Webinars need to include PowerPoint presentations. Speakers are never "seen" on screen – just their PowerPoint slides are displayed. Audio is done through the phone or through your computer's VOIP/phone. For our accreditation, webinars are really glorified teleconferences because we track participation through the phone connection and the "following along with the slides" part is optional.

1. **How much lead time do you need for webcasts/webinars co-sponsored with the CLE Department?**

More marketing time equals higher registrations. An eight week lead time is required

if the webinar/webcast is to be co-sponsored with the CLE Department.

2. **Must the live or taping site be in Albany?**
For a webinar/teleconference speakers can be anywhere. We've had speakers in Italy and the UK on the same CLE. For webinars, speakers need to download Microsoft Office Live Meeting software provided by our vendor to control slides shown on screen.

For a webcast – the speakers need to be in the same room since the program is captured both in video and audio and transmitted through our website.

3. **What are the cost considerations?**
For webinar/teleconferences, costs run about $.22 per minute, per caller. For an hour phone seminar it is about $18. (Scheduling fees, speaker pre-conference fees, etc.). For a webinar, which includes access to the Microsoft Office Live Meeting PowerPoint File Share – it is an extra $.22 per minutes – basically double the cost for a webinar. We do get an MP3 file and CD at the conclusion of the program which can be sold as a CLE Online program. If you anticipate more than 50 people you should do a webcast.

For webcasts, the vendor invoices range from $700 to $800 for a typical 1.5 to 2 hour webcast.

ii. CLE Costs Can the Section subsidize the cost of a particular program (either live or webinar) to encourage greater attendance? If so, how does that work?.

Registration fees for programs co-sponsored with the CLE Department provide for a member rate and non-member rate. If the Section wishes to provide for a larger discount for its members over and above the established member rate, it can pay a per-capita dollar amount for the additional discount requested.

iii. NYSBA Relationship with the Section What are NYSBA's expectations for the Section in terms of CLE programs? Do you have a summary of the outcome of the state-wide programs that the Section's CLE Committee has put on in the last 5 years?

The NYSBA CLE Department solicits ideas for CLE programs from the various NYSBA Sections in order to provide the entire NYSBA membership a diverse selection of CLE programming. Many of the live programs produced by the CLE Department in co-sponsorship with the various Sections are those that are offered on an annual basis or every other year. The topic remains the same, but it is updated by the program chairs and faculty. New program ideas are accepted for accreditation through the use of the Program Questionnaire (see Attachment A) which the prospective program chair completes and returns to the CLE Department for accreditation.

Ideally, a Section should consider co-sponsoring either a one-day or half-day program with the CLE Department every six months. Co-sponsoring with the Department provides an opportunity for Sections to promote the expertise of its members while establishing its reputation in its particular practice area to the other NYSBA Sections and the outside legal community. Co-sponsored programs each have marketing plans that target a wide-range of legal professionals over and above the Section's membership both through print brochures and far-reaching e-blasts.

iv. CLE Environmental Law Section Programs Co-Sponsored with the CLE Department.

2007	Environmental Law for New Environmental Practitioners and Newly Admitted Attorneys		
	4 locations: 184 registrants, including faculty	-$5,292.64	Net Loss
2008	Emerging Issues in Environmental Insurance		
	1 location: 70 registrants, including faculty	$1,739.41	
2009	The Redevelopment of Contaminated Property		
	4 locations (1 cancelled): 115 registrants	-$1,705.59	Net Loss
2009	New Ethics Rules for the Environmental Lawyer		
	(Webconference) 38 Registrants	-1,703.46	Net Loss
2010	Planning, Drafting & Administration of Environmental Easements		
	2 Locations: 179 Registrants	$6,472.79	
2010	Emerging Issues in Environmental Insurance		
	1 location: 96 Registrants	$5.558.25	

-END-

New York State Bar Association
One Elk Street, Albany, N.Y. 12207
Email: dguevara@nysba.org

NYSBA

NYSBA CLE Program Questionnaire [Attachment A]

The NYSBA CLE Department is pleased that you are interested in presenting a Continuing Legal Education Program. In order to evaluate your program, please complete this questionnaire and submit it with all supporting materials to H. Douglas Guevara, Senior Director via email. Thank you.

1. **Name of Sponsoring Section/Committee/Organization and Contact Information for Program Chair or Co-Chairs:**

   _____

2. **Proposed Program Title:** _____

3. **Requested Month and Location(s) for Proposed Program:** _____

4. **Program Outline/Agenda and Summary**: Please attach to this sheet the following materials: (1) a brief summary, in narrative form, describing the content of the proposed program indicating why it is important that attorneys in this particular practice area should attend. Include in your summary five key benefits or skills that attendees will gain from attending your program. (e.g. How to draft a Will; How to cross-examine a hostile witness, How proposed legislation will impact his/her practice, etc.) **and** (2) A timed program agenda indicating the amount of time to be allocated for each program segment/panel.

5. **Amount and Allocation of Instruction Hours** (See attached copy of MCLE Regulations and Guidelines). How many hours of instruction do you estimate for this program? _____

   Please indicate the number of minutes that will be spent in the following areas of professional competency (exclusive of breaks, introductions, etc). See attached MCLE Regulation §1500.2 for category definitions.

   i. Ethics and Professionalism: _____
   ii. Skills: ____
   iii. Practice Management and/or Areas of Professional Practice: ____

6. **Please Indicate the Level of Experience of your Target Audience and their Areas of Practice:**

   ☐ Newly Admitted (0-1 year) ☐ Intermediate (1-5 years) ☐ Advanced (5 + years)
   Areas of Practice:

7. **Speakers:** On a separate sheet, please list the names of proposed speakers, including their professional affiliations. It is the policy of NYSBA to ensure that program faculty for all programs are diverse along gender and ethnic lines. Please keep this in mind as you select your faculty.

8. **A Note on Program Materials**
   In order to be eligible for NYS MCLE credit, your program must include written course materials for distribution to attendees. You should refer to Section 8 (A)(4)(e) of the attached MCLE Regulations and Guidelines to ensure that your course materials meet CLE Board standards. A complete set of written course materials are required to be submitted in MS Word; Word Perfect or Saved to PDF electronic formats and are due no later than 60 days prior to the scheduled program date. Course materials submitted by speakers must be directly related to their presentation. Speakers will be asked to sign a release form granting NYSBA copyright to the materials prepared specifically for the program. **It is the responsibility of each speaker to obtain reprint approval for any third-party copyrighted materials submitted.**

Rules: Part 1500. Mandatory Continuing Legal Education Program For Attorneys In The State Of New York

§1500.2 Definitions

c. **Ethics and Professionalism** may include, among other things, the following: the norms relating to lawyers' professional obligations to clients (including the obligation to provide legal assistance to those in need, confidentiality, competence, conflicts of interest, the allocation of decision making, and zealous advocacy and its limits); the norms relating to lawyers' professional relations with prospective clients, courts and other legal institutions, and third parties (including the lawyers' fiduciary, accounting and record-keeping obligations when entrusted with law client and escrow monies, as well as the norms relating to civility); the sources of lawyers' professional obligations (including disciplinary rules, judicial decisions, and relevant constitutional and statutory provisions); recognition and resolution of ethical dilemmas; the mechanisms for enforcing professional norms; substance abuse control; and professional values (including professional development, improving the profession, and the promotion of fairness, justice and morality).

d. **Skills** must relate to the practice of law and may include, among other things, problem solving, legal analysis and reasoning, legal research and writing, drafting documents, factual investigation (as taught in courses on areas of professional practice), communication, counseling, negotiation, mediation, arbitration, organization and trial advocacy.

e. **Law Practice Management** must relate to the practice of law and may encompass, among other things, office management, applications of technology, state and federal court procedures, stress management, management of legal work and avoiding malpractice and litigation.

f. **Areas of Professional Practice** may include, among other things, corporations, wills/trusts, elder law, estate planning/administration, real estate, commercial law, civil litigation, criminal litigation, family law, labor and employment law, administrative law, securities, tort/insurance practice, bankruptcy, taxation, compensation, intellectual property, municipal law, landlord/tenant, environmental law, entertainment law, international law, social security and other government benefits, and alternative dispute resolution procedures.

NEW YORK STATE CLE BOARD
REGULATIONS AND GUIDELINES FOR THE MANDATORY CONTINUING LEGAL EDUCATION PROGRAM FOR ATTORNEYS IN THE STATE OF NEW YORK
[Excerpts]

SECTION 8. THE ACCREDITATION PROCESS

A. **Individual Courses or Programs**

[4.] **Standards for Accreditation**—Accredited continuing legal education courses or programs shall comply with the following guidelines:

a. One (1) hour of continuing legal education credit shall consist of at least 50 minutes of instruction or other accredited activity, exclusive of introductory remarks, meals, breaks or other noneducational activities. Credit hours shall be calculated in no less than 25-minute (.5-hour) increments.

i. Each 0-24 minute session of instruction or other accredited activity shall equal zero (0) CLE credit hours.
ii. Each 25–49 minute session of instruction or other accredited activity shall equal one-half (.5) credit hour.
iii. Each 50–74 minute session of instruction or other accredited activity shall equal one (1) credit hour.
iv. Each 75-99 minute session of instruction or other accredited activity shall equal one and one-half (1.5) credit hours.

b. The program shall have significant intellectual or practical content and its primary objective shall be to increase the professional legal competency of attorneys in ethics and professionalism, skills, law practice management and/or areas of professional practice.

[c] Omitted

d. The continuing legal education course or program shall be taught by instructors with expertise in the subject matter being taught and shall be specifically tailored to a legal audience.

i. The faculty of the course or program shall include at least one attorney in good standing, who shall actively participate in the course or program.

ii. The faculty of the course or program shall not include any disbarred attorney.

e. Thorough, high quality, readable and carefully prewritten materials shall be made available to all participants at or before the time the course or program is presented[.]

f. Written materials for approved courses and programs shall satisfy the following additional criteria:

i. Materials shall be prepared or compiled specifically for the accredited course or program, and shall specifically address each topic presented in the course or program;

ii. Materials shall be prepared or adopted and approved by the speaker and shall be distributed to the attendees at or before the time the course or program is to be held[;]

iii. Materials shall reflect that they are timely or that they have been updated with specific reference to the course or program;

iv. Materials shall cover those matters that one would expect for a comprehensive and professional treatment of the subject matter of the course or program; and

v. Brief outlines without citations or explanatory notations shall not constitute compliance with Program accreditation criteria.

New York State Bar Association
CLE Department

One Elk Street
Albany, NY 12122
Phone: 518-.487-5581 • E-mail: lstaub@nysba.org

[Name of Program:_____]
[Date of Program:_____]

Speaker Profile

Note: You may wish to scan this form, complete and submit it to the above email address.

1. Full name, title and firm name as you wish them to appear in the course brochure and course materials

   _____
   _____

2. Please submit via Email with an attachment in MS Word format, a short professional biography, in narrative form, which will be included in the course materials and kept on file at the Institute. You should include aspects of your professional background that directly relate to the topic that you will be presenting. Do not send a resume. A speaker biography is required by NYS CLE Board Regulations.

3. Mailing Address:

   _____
   _____
   _____

4. Contact telephone number, fax number, and email address:

   Voice: _____
   Fax: _____
   Email: _____

5. What is the best way of transmitting written communications to you? (check one)
   Fax: _____ Email _____ Other: _____

6. The name and number of your administrative assistant who we can speak with in the event that you are unavailable:

   _____
   _____
   _____

General Information about NYSBA CLE Teleconferences, Webinars and Webcasts

From the NYSBA Website www.nysba.org/CLETeleconferences

What is a CLE Teleconference/Webinar?
A CLE Teleconference/Webinar is a live, interactive CLE that you can participate in from the comfort and convenience of your home or office using a touch tone phone and a computer with an Internet connection. You listen to the program with your telephone, and you can view the PowerPoint presentations of the speakers at a Web site, during the program. Your materials and call-information will arrive via e-mail prior to the program. Please note that webinars require the use of a telephone to hear the audio of the program.

Listen and learn, even ask questions just as you would at an "in person" seminar. You will be able to ask questions during the program either over the phone and/or via e-mail.

What is a CLE Webcast/Webconference?
A CLE Webcast/Webconference is a live Internet broadcast, with audio and video of the program streaming online. Unlike a CLE Teleconference/Webinar, you do not need to dial in using a telephone for a CLE Webcast. The program is "broadcast" live from the program location - video and audio are online only. A webconferencing feature allows you to ask questions of the speakers live online. To participate in a CLE Webcast, you will need the following:

- A high-speed Internet connection
- A computer with sound card and speakers (16 bit or better)
- A recent version of Acrobat Reader in order to download and view materials
- Microsoft Internet Explorer
- Adobe Flash Player - (http://get.adobe.com/flashplayer/)

During a CLE Webcast/Webconference, you will be able to ask questions of the panelists via e-mail. A program moderator will pose all questions asked during the program to the speakers.

What's the Difference Between a CLE Webinar and a CLE Webcast?
A CLE Webinar requires the use of a phone. During a CLE Webcast the audio and video is online only.

How are course materials forwarded?
Course materials for CLE Teleconference/Webinars and CLE Webcasts/Webconferences will be uploaded to a weblink and will be downloadable PDF files. Your call-in information along with the weblink to the course materials will be forwarded to you via e-mail prior to the program. If you have not received your dial-in information 24 hours before the program start time, please contact the CLE Registrar to be forwarded the link and program details. Please be sure your e-mail address is current and up-to-date in our system. If you wish to follow along and view the PowerPoint slides, you will need to test your browser for compatibility prior to the event date if the program offered is a webinar. You will be forwarded a link for the browser check. The software used is Microsoft Office Live Meeting.

Will I be able to ask questions? Are these types of programs interactive?
Yes! "Full-conferencing" is available for all CLE Teleconferences/Webinars and Webcasts/Webconferences. During a CLE Teleconference/Webinar, participants who want to ask a question of the speaker will be prompted to push a particular key on their touch-tone phone to be placed into a queue for questions. Throughout the teleconference an operator mutes unintended interruptions. As an alternative, or in addition to this, questions can also be submitted by sending an e-mail using the web Q/A feature if the program is offered as a webinar.

To ask a question during a CLE Webcast/Webconference, you will need to use the Q/A tab at the weblink provided. Using this feature, your question will be emailed directly to the speakers and the program moderator. The program moderator will pose each question asked to the presenters during the program.

How do I register for a teleconference/webinar or webcast/webconference?
Register for CLE teleconferences/webinars and CLE webcasts/webconferences in the same manner as you would register for a live CLE program. Register online at www.nysba.org/cle or call 1-800-582-2452. In the Albany area, please call (518) 463-3724. Please note that pre-registration is required. Every listener must officially register and pay for the course in order to qualify for MCLE credit. To receive member discounts, you will need to log in. If you forgot your member record, username or password, please call the Records Department at (518) 487-5522.

Is there a long-distance charge for the call for a CLE Teleconference/Webinar?
A toll-free, dial-in number is provided for callers in the United States. International callers pay their ordinary long-distance charge for a call to the United States. Please note that webcasts/webconferences do not require the use of a telephone.

What time zone is used for the program call-in/connect time?
Eastern Time.

How do I connect to a CLE Teleconference?
It's simple – you can use any touch-tone phone. After you register for a program, you will receive a confirmation letter with instructions on what to do to participate in the program. Participants will be given a special toll-free number to call on the day of the seminar. When you call the toll-free number, a **live operator** will answer the call and you will be patched into the program. Please note that the operator will confirm your registration for the program. Our conferencing vendor will monitor the calls placed to the toll-free number and provide us with a master participant list following the program noting your connect and disconnect times. We ask all registrants to please dial-in **5 – 10 minutes prior** to the scheduled start time. In order to receive MCLE credit, you must stay on the line throughout the seminar. If for some reason you are disconnected, please call back immediately and check in again with the operator. All registrants must individually check in with the operator by phone in order to receive credit.

How do I connect to a CLE Webcast/Webconference?
Go directly to the special weblink provided to all registrants. Please note that if you log in early - you may need to refresh the page at the scheduled start time.

Will the speakers announce a program code during the program?
Yes. During the course of the seminar, the speakers will announce a program code. Please record the program code on the MCLE Listener Verification Form available at the materials link and mail it back to us within one week.

How will I receive my MCLE certificate?
In order to receive MCLE credit, you must stay on the line throughout the seminar. During the seminar, the speaker will announce a program code. On the MCLE Listener Verification Form, please write down the code announced during the program and mail the form to the following address: New York State Bar Association - Attn: CLE Registrar - Teleconferences, One Elk Street, Albany, New York 12207.

You will receive your official MCLE Certificate in about 2-4 weeks by mail in an envelope marked "MCLE Certificate Enclosed." If you need your certificate sooner, please call the registrar at (518) 463-3724. Please note that you are required to keep your MCLE certificate for 4 years. Login to your MyNYSBA account to track your credits online.

How many credits will I receive?
Under New York's MCLE Rules, most programs are approved for 1.0 - 2.5 MCLE credits. Unfortunately, you cannot receive credit if you miss part of the program. Your connection time and disconnect times are tracked by our conferencing vendor. **Please note: Newly admitted attorneys cannot receive MCLE credit for their participation in CLE teleconferences, webinars, webcasts or webconferences.**

How long will the materials be available online?
The materials link forwarded to all registrants will be active for at least 4 weeks following the program. We encourage registrants to save the files to their system. If you attended a seminar, and the website link is no longer active, please contact the CLE registrar to have the files forwarded to you.

Can I get a hard copy of the materials?
Printouts of the materials are available upon request to all registrants. Please contact the CLE Registrar if you would like a hard copy of the materials mailed to you. Books are printed "on demand" and you may not receive a copy of the materials in time for the live program, especially if requested within 24-48 hours of the program start time.

What if I miss the program? Will the program be recorded?
CLE Teleconferences/Webinars and CLE Webcasts/Webconferences are recorded and archives are available online a few weeks following the program. For a list of prior teleconferences/webinars, go to Previous Teleconferences/Webinars and Webcasts or visit our CLE Online webpage at www.nysba.org/CLEOnline.

What if I have more questions?

Contact Katherine Suchocki, Staff Attorney in the CLE Department at (518) 487-5590 or ksuchocki@nysba.org or the CLE Registrar's Office.

Advantages of a NYSBA CLE Teleconference/Webinar:

Convenience! Listen, Learn and Earn Credits right from your desk!

- Stay current, earn CLE credit and learn without leaving your home or office.
- No tapes— seminars are LIVE.
- See the PowerPoint presentations as the speakers are making their remarks
- Ask questions by telephone or by e-mail
- Free 800 dial-in service—for calls within the United States (for CLE Teleconferences/Webinars)
- Satisfaction guaranteed.

To view upcoming programs, click here.

We welcome your comments and suggestions. Feel free to forward topic suggestions and program ideas to Katherine Suchocki at ksuchocki@nysba.org.

Please note: Newly admitted attorneys cannot receive MCLE credit for their participation in CLE teleconferences, webinars, webcasts or webconferences. Newly admitted attorneys must attend programs in person.

For more information about the CLE Rules, pelase visit the NYS Office of Court Administration website at www.nycourts.gov/attorneys/cle.