NEW YORK STATE BAR ASSOCIATION

NYSBA CLE

Wednesday, April 7, 2010
New York City

Friday, April 9, 2010
Albany

Friday, April 30, 2010
Buffalo

Friday, April 30, 2010
Long Island

7.0 MCLE Credits

See inside for more details.

The Examination Before Trial - Honing your Deposition Skills in Tort and Personal Injury Cases

Register Now!

Save Money, and Guarantee Your Seat at the Program!!!

Co-sponsored by the Torts, Insurance and Compensation Law Section and the Committee on Continuing Legal Education of the New York State Bar Association

NYSBA

Program Description

The experienced litigator knows that the examination before trial of both the adverse witness and his or her own client can may make or break the case in court. The experienced litigator knows not to depose a witness merely to learn what that witness has to say, but seize upon that opportunity to prepare for and use what that witness will say at trial to his or her advantage.

The ability to properly prepare witnesses, conduct and defend examinations before trial, and effectively use the transcript, is essential to your practice. This seminar will provide you with practical skills and strategies to assist you in becoming an experienced litigator.

Agenda

8:30-9:00 a.m. **REGISTRATION**

9:00-9:10 **OPENING REMARKS**

9:10-9:35 **I. THE FOUNDATION – Understanding the Rules & Law of Examinations before Trial**
- A. Purpose of taking an EBT
- B. Venue and Priority
- C. The EBT notice
- D. Production of "things" at the deposition
- E. What did I just stipulate to?
- F. Objections
  1. "Form" — what is an objection to the form of the question?
  2. Other objections

9:35-10:25 **II. PREPARATION – YOURS – What You Should Know Before You Start Questioning**
- A. Discovery before the EBT
- B Strategy and purpose – what are you trying to accomplish?
  1. Discovery
  2. What do I have to get the witness to say in order to win at summary judgment?
- C. Ethics of pre-deposition investigation
  1. Disclosure of statements
  2. Social networking
  3. Public records research
- D. Crafting your questions

10:25-10:40 **COFFEE BREAK**

10:40-11:05 **III. PREPARATION – THE WITNESS – Protecting Your Client and Your Case**
- A. What the client knows
- B. What the client should know
- C. What can the client review
- D. What prep is discoverable?
- E. How to get your client to show his/her "best side"
- F. Ethical considerations

11:05-11:55 **IV. A VIEW FROM THE BENCH – What You Need to Know Before Going to Court**
- A. What's the difference between discoverable, relevant and/or admissible?
- B. Calling the judge for a ruling
- C. 11 NYCRR 221 – Rules of Civility
- D. Uses and abuses of the deposition transcript at trial
- E. Technology in the courtroom for play back of a videotaped examinations before trial

11:55-1:00 p.m. **LUNCH (on your own)**

1:00-1:50 **V. CONDUCTING THE DEPOSITION – How to Prove Your Case at the EBT**
- A. Strategy and technique
- B. Exhibits
- C. Dealing with objections
- D. Achieving your goal
- E. Making a record
- F. Stop coaching the witness!
- G. Whether or Not to Videotape

1:50-2:40 **VI. DEFENDING THE DEPOSITION – How Not to Lose the Case at the EBT**
- A. What's an objectionable question?
- B. Making objections
- C. Coaching
- D. Making a record
- E. When should you question your own witness?

2:40-2:55 **COFFEE/SOFT DRINK BREAK**

2:55-3:45 **VII. DEMONSTRATION OF AN EXAMINATION BEFORE TRIAL OF AN AUTO ACCIDENT PLAINTIFF**

3:45-4:10 **VIII. DEMONSTRATION OF AN EXAMINATION BEFORE TRIAL OF AN AUTO ACCIDENT DEFENDANT**

4:10-4:35 **IX. AFTER THE EXAMINATION BEFORE TRIAL – What's Next?**
- A. "Read and sign"?
- B. Who pays for the transcript?
- C. Rulings on preserved objections at the time of trial
- D. Discovery after the deposition
- E. When can you use the transcript at trial?
- F. Non-parties

4:35 p.m. **ADJOURNMENT**

7.0 TOTAL CREDITS

2.5 credit hours of professional practice and/or practice management; 4.5 of skills.

This **basic-level** course has been approved for MCLE credit in **New York** for all attorneys, **including** newly admitted (less than 24 months).

This program has also been approved for MCLE credit by the **State Bar of California** and the **Pennsylvania Continuing Legal Education Board** for **5.5** credit hours of substantive law. All inquiries regarding MCLE credits may be directed to **(518) 487-5606**.

The New York State Bar Association's Committee on Continuing Legal Education has been certified by the New York State Continuing Legal Education Board as an accredited provider of continuing legal education in the State of New York.

IMPORTANT NOTICE: PARTIAL CREDIT FOR PROGRAM SEGMENTS NOT ALLOWED. Under the New York State Continuing Legal Education Board Regulations and Guidelines, attendees at CLE programs cannot receive MCLE credit for a program segment unless they are present for the entire segment. Persons who arrive late, depart early, or are absent for any portion of the segment will not receive credit for that segment.

Program Faculty

Overall Planning Chair

Kenneth A. Krajewski, Esq.
Brown & Kelly, LLP
Buffalo

Local Panels

New York City: Richard W. Dawson, Esq. (Chair), Conway, Farrell, Curtin & Kelly, P.C., New York City * **Janet O'Connor Cornell, Esq.**, Conway, Farrell, Curtin & Kelly P.C., New York City * **Emilo F. Grillo, Esq.**, Carroll McNulty & Kull LLC, New York City * **Lawton W. Squires, Esq.**, Herzfeld & Rubin, P.C., New York City * **Michael C. Tromello, Esq.**, Tromello, McDonnell & Kehoe, Melville.

Albany: Edward B. Flink, Esq. (Chair), Flink Smith LLC, Latham * **Jeffrey K. Anderson, Esq.**, Anderson, Moschetti & Taffany, PLLC, Latham * **Leah Walker Casey, Esq.**, Carter, Conboy, Case, Blackmore, Maloney & Laird, P.C., Albany * **Christopher A. Guetti, Esq.**, Flink Smith LLC, Latham * **Hon. Michael C. Lynch**, New York State Supreme Court, Third Judicial District, Albany * **Claudia A. Ryan, Esq.**, Towne, Ryan & Partners, PC, Albany * **Eugene Sarfoh, Esq.**, O'Connor, O'Connor, Bresee & First, PC, Albany.

Buffalo: Kenneth A. Krajewski, Esq. (Chair), Brown & Kelly, LLP, Buffalo * **Jeffrey A. Black, Esq.**, Dwyer Black & Lyle, LLP, Olean * **Patricia S. Ciccarelli, Esq.**, Brown & Kelly, LLP, Buffalo * **John P. Comerford, Esq.**, John P. Comerford, Esq., Lipsitz Ponterio, LLC, Buffalo* **Thomas P. Cunningham, Esq.**, Rupp Baase Pfalzgraf Cunningham & Coppola LLC, Buffalo * **Daniel J. Marren, Esq.**, Confidential Law Clerk to Hon. Paula L. Feroleto, New York State Supreme Court, Buffalo * **Michael F. Perley, Esq.**, Hurwitz & Fine, P.C., Buffalo * **Kelly J. Philips, Esq.**, Sugarman Law Firm, LLP, Buffalo * **Craig Z. Small, Esq.**, Law Offices of Craig Z. Small, Buffalo.

Long Island: Elizabeth A. Fitzpatrick, Esq. (Chair), Lewis Johs Avallone Aviles, LLP, Melville * **Robert W. Doyle, Jr., Esq.**, Lewis Johs Avallone Aviles, LLP, Melville * **Richard A. Engelberg, Esq.**, Law Office of Richard A Engelberg, Plainview * **Christopher Kendric, Esq.**, Ahmuty, Demers & McManus, Albertson * **James N. LiCalzi, Esq.**, Duffy & Duffy, Unindale * **Chris McGrath, Esq.**, Sullivan Papain Block McGrath & Cannavo PC, Mineola * **Robert Modica, Esq.**, Gordon & Rees, LLP, New York City * **Jeffrey D. Present, Esq.**, Montfort, Healy, McGuire & Salley, LLP, Garden City * **Hon. Thomas F. Whelan**, New York State Supreme Court Justice, Suffolk County, Riverhead.

Information and Policies

Pre-registration Strongly Advised: You can save money and guarantee your seat and course materials by registering early. Registrations received or postmarked within 10 days of the event, or at the door, are subject to a higher registration fee. Seating is limited in all locations and registrations are taken on a first-come, first-served basis. If you plan to pre-register within 10 days of the program or to register at the door, please call the CLE Registrar's Office at **(800) 582-2452** to verify that the program is not sold out or that the date or location has not been changed. Pre-registrants are guaranteed a seat and set of course materials, and will automatically be notified if there are any such changes in the date or location of the program.

Cancellations are easy – full refunds are given: Your full registration fee will be refunded if you give us notice no later than the close of business (4:45 p.m. EST) on the day prior to the date of the program for which you registered. To cancel, write the CLE Registrar's Office at One Elk Street, Albany, New York 12207; or fax **(518) 487-5618**; or call **(800) 582-2452**. If you do not cancel and do not attend the program, a complete set of materials will be forwarded to you in consideration of the registration fee. Non-registrants may purchase program materials after the final program date.

MCLE Credit: This program is acceptable for MCLE credit in New York and many other MCLE jurisdictions. Please see inside of this brochure for details.

Tuition Assistance: NYSBA members may apply for tuition assistance to attend this program, based on financial hardship. Under that policy, any member of our Association who has a genuine financial hardship may apply in writing, not later than five working days prior to the program, explaining the basis of his/her hardship, and, if approved, may receive tuition assistance, depending on the circumstances. For more details, please contact our CLE Registrar's Office at **(800) 582-2452.**

Non Members - Join the NYSBA and enjoy great discounts on CLE seminars, products, and other valuable NYSBA services. NYSBA members can save 30 percent or more over non-members on CLE seminars alone. Join now and take advantage of NYSBA membership discounts throughout the year.

If you wish to join, please contact NYSBA Membership Services at **(518) 487-5577** and an application will be sent to you.

Tape Recording of NYSBA Seminars is not permitted.

Accommodations for Persons with Disabilities: NYSBA will make reasonable modifications/accommodations to allow participation in its services, programs, or activities by persons with disabilities. NYSBA will provide auxiliary aids and services upon request. NYSBA will remove architectural barriers and communication barriers that are structural in nature where readily achievable. To request auxiliary aids or services or if you have any questions regarding accessibility, please contact Cindy O'Brien at 518-487-5585.

REGISTRATION FORM

Name _____ Member ID _____

Address _____ Business Phone (_____) _____

_____ Email _____

City _____ State _____ Zip _____

Please enroll me in "The Examination Before Trial - Honing your Deposition Skills in Tort and Personal Injury Cases"

☐ **New York City,** Wednesday, April 7, 2010 (0A024) ☐ **Albany,** Friday, April 9, 2010 (0A021) ☐ **Buffalo,** Friday, April 30, 2010 (0A022)
☐ **Long Island,** Friday, April 30, 2010 (0A023)

PROGRAM FEES

Early registrations, received or postmarked 10 days prior to the date of the registered session:
NYSBA members–$150 **non-members–$235** **NYSBA student members–$45**

Late registrations, received or postmarked thereafter, and on-site registrations:
NYSBA members–$165 **non-members–$250** **NYSBA student members–$60**

☐ Check or money order enclosed in the amount of $ _____
(Please make checks payable to the New York State Bar Association.)

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Authorized Signature _____

4 EASY WAYS TO REGISTER

Online at **www.nysba.org/cle**

Call us at **1.800.582.2452** (U.S. and Canada) or **518.463.3724** in the Albany & surrounding area

Mail to: Registrar's Office
New York State Bar Association
One Elk Street, Albany, NY 12207

Fax the order form to **518.487.5618**

For more information on our CLE Coupon Plan offering substantial savings on full-day, live programs, please contact the Registrar's Office at **1.800.582.2452**.

Source Code: CL3283

Program Locations

Important Note: If you plan to pre-register within 10 days of the program or register at the door, please call us at **(800) 582-2452** or in Albany and surrounding area, dial **(518) 463-3724**, to verify that the program is not sold out or that the date or location has not been changed. Those who pre-register in advance of the program will automatically be notified of any such changes and will receive a full refund up to the day prior to the program, if they cannot attend and notify us of their cancellation. Please pre-register as early as possible.

Wednesday
April 7, 2010
New York City

Concierge Conference Center
780 Third Avenue
New York, NY 10017
(212) 735-0072

Friday
April 9, 2010
Albany

Holiday Inn Express & Suites
400 Old Loudon Road
Latham, NY 12210
(518) 783-6161

Friday
April 30, 2010
Buffalo

Holiday Inn Amherst
1881 Niagara Falls Blvd.
Amherst, NY 14228
(716) 691-8181

Friday
April 30, 2010
Long Island

Melville Marriott
1350 Old Walt Whitman Road
Melville, L.I., NY 11747
(631) 423-1600

See our Spring 2010 schedule online at www.nysba.org/cle

REGISTER EARLY, SAVE MONEY, AND GUARANTEE YOUR SEAT AT THE PROGRAM!!!

NYSBA CLE *presents*

The Examination Before Trial - Honing your Deposition Skills in Tort and Personal Injury Cases

7.0 MCLE Credits

See inside for more details.

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NEW YORK STATE BAR ASSOCIATION
CONTINUING LEGAL EDUCATION

Mail to: CLE Registration Office
New York State Bar Association
One Elk Street, Albany, NY 12207

Registrant note: is your name and address listed correctly on the mailing label at the right? If not, fill in correction below and return this page to NYSBA. If you receive multiple copies of this brochure, please pass them along to colleagues who may be interested in this program.

REGISTRANT: PLEASE PROVIDE MAILING INSTRUCTIONS OR ADDRESS CORRECTION

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