



NEW YORK STATE
BAR ASSOCIATION

9.0 MCLE Credits

Under New York's MCLE rule, this program has been approved for a total of 9.0 MCLE Credits consisting of 8.0 Areas of Professional Practice and 1.0 Ethics.

Trusts & Estates and Elder Law & Special Needs **JOINT FALL MEETING**

October 24-25, 2019

The Gideon Putnam Hotel,
Saratoga Springs, NY

www.nysba.org/ELSNTRUSTSFALL19/



Elder Law & Special Needs Section Chair

Tara Pleat, Esq., Wilcenski and Pleat, PLLC, Clifton Park

Trusts & Estates Law Section Chair

Robert M. Harper, Esq., Farrell Fritz, PC, Uniondale

Program Co-Chairs:

Nicole L. Clouthier, Esq., Cioffi Slezak Wildgrube P.C., Schenectady

Salvatore M. DiCostanzo, Esq., Maker, Fragale & Di Costanzo, LLP, Rye

Ellyn S. Kravitz, Esq., Abrams, Fensterman, Fensterman, Eisman, Formato, Ferrara,
Wolf & Carone, LLP, Brooklyn

Frank T. Santoro, Esq., Farrell Fritz, P.C., Uniondale

Total Credits:

Under New York's MCLE rule, this program has been approved for a total of 9.0 MCLE credits consisting of 8.0 credits in Professional Practice and 1.0 credit in Ethics for both newly admitted and experienced attorneys.

Accommodations for Persons with Disabilities: NYSBA welcomes participation by individuals with disabilities.

NYSBA is committed to complying with all applicable laws that prohibit discrimination against individuals on the basis of disability in the full and equal enjoyment of its goods, services, programs, activities, facilities, privileges, advantages or accommodations. To request auxiliary aids or services or if you have any questions regarding accessibility, contact Lisa Bataille at (518) 487-5680 or lbataille@nysba.org.

SCHEDULE OF EVENTS

Thursday, October 24

9:00 a.m. – 10:15 a.m.

10:00 a.m. – 5:00 p.m.

10:30 a.m. – 1:00 p.m.

12:00 p.m. – 2:00 p.m.

2:00 p.m.

Elder Law Officers Meeting

Registration & Exhibitors- Gallery

Elder Law & Special Needs Section Executive Committee Luncheon Meeting – Arches

Trusts & Estates Law Section Executive Committee Luncheon Meeting – Garden Room

General Session – Conference Ballroom

Introductions and welcome:

Tara Pleat & Robert Harper

Program Introduction:

Ellyn Kravitz/Salvatore Di Costanzo and Nicole Clouthier/Frank Santoro

2:10 p.m. – 3:00 p.m.

Powers of Attorney – What Trust & Estates and Elder Law Attorneys Need to Know

(1.0 credits in Professional Practice)

- Status of Pending Legislation
- Common Pitfalls in Drafting and Executing
- Trusts & Estates vs. Elder Law Modifications

Speakers:

Katherine Carpenter, Esq.

Wilcenski & Pleat, PLLC, Clifton Park, NY

Joanna Feldman, Esq.

Maker Fragale & Di Costanzo, LLP, Rye, NY

3:00 p.m. – 3:50 p.m.

Litigating Power of Attorney Disputes

(1.0 Credit in Professional Practice)

- Validity of Powers of Attorney;
- Permissible and Impermissible Gifting and Self-Dealing;
- Terminating or Revoking and Agent's Authority to Act;
- Supreme and Surrogate's Court Proceedings Involving Powers of Attorney

Speakers:

William J. Keniry, Esq.

Tabner Ryan & Keniry LLP, Albany, NY

Ian W. MacLean, Esq.

The MacLean Law Firm, P.C., New York, NY

3:50 p.m. – 4:00 p.m.

Break

4:00 p.m. – 4:50 p.m.

Financial Abuse of the Elderly

(1.0 credit in Professional Practice)

- Recognizing Signs of Elder Abuse;
- Steps that Can Be Taken to Protect the Elderly and to Ensure Their Equal Access to Justice;

Civil Remedies:

- Criminal Remedies and the District Attorney's Perspective;
- Possible Legislative Solutions

Speaker:

Arlene Markarian, Esq.

Nassau County District Attorney – Elder Abuse Unit, Mineola, NY

5:00 p.m.

Adjourn

5:30 p.m. – 6:30 p.m.

Young Lawyers: Cocktail Reception – Garden Room

SCHEDULE OF EVENTS

All others:

- 6:00 p.m. **Buses Board** (Outside of the Gideon Putnam Hotel) to the Canfield Casino
(continuous loops until 7:00 p.m.)
- 6:30 p.m. **Cocktail Reception, Dinner and Gaming Activities**
The Canfield Casino, Congress Park, Saratoga Springs
- 9:30 p.m. **Buses begin return to Gideon Putnam and Embassy Suites Hotels**
(continuous shuttle until 10:45 p.m.)

Friday, October 25

- 7:30 a.m. **Registration – Ballroom Gallery**
Breakfast and Exhibitors
- 7:30 a.m. – 8:30 a.m. **Elder Law & Special Needs Section Committee Breakfast Meetings:**
Geyser & Orenda Rooms
- 7:30 a.m. – 8:30 a.m. **Trusts & Estates Law Section Committee Breakfast Meetings – Estate and Blue Rooms**
- 8:30 a.m. **General Session – Conference Ballroom**
- 8:40 a.m. – 9:55 a.m. **Contested Article 81 Guardianships**
(1.5 credits in Professional Practice)
- Focus on Functional Evaluation, rather than Medical Diagnosis
 - Role of the Court Evaluator;
 - Role of the Court-Appointed Counsel
 - Properly Handling the Uniformed Court Appointee;
 - Burdens of Proof and Related Evidentiary Issues;
 - Disputes Concerning the Selection of Guardians;
 - Compensation of Article 81 Guardians (Addressing Case Law Providing for Compensation Pursuant to SCPA)
- Speakers:**
Hon. Tanya R. Kennedy
Supreme Court, NY County, New York, NY
Hon. Paul V. Morgan
Rensselaer County Surrogate's Court, Troy, NY
Acting Supreme Court Judge
Designated Article 81 Judge for Albany, Rensselaer, Columbia, Greene and Schoharie Counties
- Panel Chair:**
Anthony J. Lamberti, Esq.
Armstrong & Lamberti, PLLC, Staten Island, NY
- 9:55 a.m. – 10:20 a.m. **Interstate Guardianship Practice**
(0.5 credit hours in Professional Practice)
- Application of Article 83 of the Mental Hygiene Law to Guardianship Proceedings in Surrogate's Court and Supreme Court;
 - The "Granny-Snatching" Statute; Transferring Out-of-State Guardianships to New York; and Transferring New York Guardianships to Other States.
- Speaker:**
Ira Salzman, Esq.
Goldfarb Abrandt Salzman & Kutzin LLP, New York, NY
- 10:20 a.m. – 10:35 a.m. **Break**

SCHEDULE OF EVENTS

10:35 a.m. – 11:25 a.m.

New York Trust Code

(1.0 credits in Professional Practice)

(Addressing the Differences between New York's Current Trust Laws and the Noteworthy Provisions of the Proposed New York Trust Code).

Proposed New York Trust Code

- Impetus behind the proposed code
- Codification of rules and common law into one statutory scheme
- Overview of proposed provisions
- Interplay with other statutes
- Hurdles to enactment

Speakers:

Prof. Ira Bloom
Albany Law School, Albany, NY
Prof. William LaPiana
New York Law School, New York, NY

11:25 p.m. – 12:15 p.m.

Ethically Representing a Client with Diminished Capacity

(1.0 credit in Ethics)

- Rule 1.14 of the Rules of Professional Conduct;
- Duty to Take Action to Protect a Client with Diminished Capacity;
- Commencement of Guardianship Proceedings to Protect a Client;
- Tension between Court-Appointed Counsel and Retained Counsel in Contested Guardianship Proceedings; and
- Conflicts of Interest Associated with Representing a Client Who Has Diminished Capacity.

Speakers:

Robert Abrams, Esq.
Abrams, Fensterman, Fensterman, Eisman, Formato, Ferrara, Wolf & Carone, LLP, Brooklyn, NY
Robert M. Freedman, Esq.
Schiff Hardin LLP, New York, NY

12:15 p.m. – 1:30 p.m.

Buffet Lunch Break – Arches Room

1:30 p.m. – 2:20 p.m.

Administering Estates and Trusts to Avoid Litigation

(1.0 hours in Professional Practice)

- Effective Use of In Terrorem Clauses (Including the Extent to Which They Can be Triggered by Actions of Individuals Other than the Beneficiaries to Whom They Apply; Whether they Have Been Held to Prevent Challenges to a Fiduciary's Eligibility or Removal; and Whether They Can prevent a Beneficiary from Objecting to a Fiduciary's Accounting);
- Exoneration Clauses (Discussing EPTL 11-1.7, Including the 2018 Amendments Thereto, Which Provide that Exculpatory Provisions in Lifetime Trusts Executed on or after August 24, 2018 Are Void as Against Public Policy);
- Reformation of Instruments After the First Department's Decision in Matter of Sukenik;
- Trust Decanting; and Supplemental Needs Trusts and Pooled Trusts.

Speakers:

Ilene S. Cooper, Esq.
Farrell Fritz P.C., Uniondale, NY
Joseph T. La Ferlita, Esq.
Farrell Fritz P.C., Uniondale, NY

2:20 p.m. – 3:10 p.m.

Mediation Instead of Litigation (1.0 credits in Professional Practice)

Speakers:

Rita M. Mella, Esq.
New York County Surrogate's Court, New York, NY
Nancy R. Rudolph, Esq.
Bleakley Platt & Schmidt, LLP, White Plains, NY

SCHEDULE OF EVENTS

Hon. Brandon R. Sall

Westchester County Surrogate's Court, White Plains, NY

Daniel M. Weitz, Esq.

Director, Professional & Court Services, Office of Court Administration, New York, NY

3:30 p.m.

Program Adjourns

4:00 p.m.

Historical Tour of the Saratoga Battlefield National Park with James S. Kaplan, Esq.

(Sign up on registration form)

Saratoga Battlefield National Park, which many consider to be the most important American Revolutionary site in the country. Jim is the President of the Lower Manhattan Historical Association which annually celebrates in October the American Victory of General Horatio Gates at the Battle of Saratoga by laying a wreath on his recently remarked grave in Manhattan's Trinity Churchyard. (Meet in hotel lobby to arrange car pools)



NEW YORK STATE BAR ASSOCIATION

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Name _____ Email _____

Firm _____

Address _____

City _____ State _____ Zip _____

Phone _____ Fax _____

Spouse/Guest Name _____

REGISTRATION FEES

- ☐ NYSBA Elder Law & Special Needs and Trusts & Estates Section Members: \$350.00
- ☐ NYSBA Member - Newly Admitted (5 years or less)*: \$250.00
- ☐ NYSBA ELSN Section Member First Time Attendee**: \$250.00
- ☐ Other NYSBA Members: \$400.00
- ☐ Non-NYSBA Member Attorneys: \$450.00
- ☐ Spouse/Guest: \$200.00
- ☐ Commuter Rate (MCLE Program only): \$200.00

**Newly-Admitted attorneys are not required to be a Section member to receive preferred rate.*

***Trust & Estates and/or Elder Law and Special Needs Section members who have not attended a Summer or Fall Section meeting since 2008.*

Attorney Registration Fee includes:

Thursday & Friday MCLE Programming and associated costs, Thursday Canfield Casino Cocktail Reception, Dinner and Entertainment, Friday Continental Breakfast, MCLE meeting coffee and breaks, and lunch.

Spouse/Guest Registration Fee includes:

Thursday Canfield Casino Cocktail Reception and Dinner, Friday Continental Breakfast.

SOCIAL EVENTS/ACTIVITIES

☐ I/We plan to attend the Canfield Casino Cocktail Reception/Dinner Thursday, October 24 _____ (No. attending)

☐ DIETARY NEEDS _____

☐ Tour of Saratoga Battlefield w/ James Kaplan
Friday, October 25 (No charge, but RSVP required.)

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BOOK YOUR OWN HOTEL ACCOMMODATIONS

Call 866-746-1077 by SEPTEMBER 30th and mention group #9NC8H5 Elder Law and Trusts & Estates Fall Mtg. to receive our preferred rate of \$175/night plus taxes. Reservations will fill quickly. Availability of rooms is not guaranteed up to the cut-off date.

Registration Cancellation:

Notice of cancellation must be received by **October 15th** in order to obtain a refund of registration fees.

PAYMENT INFORMATION

- ☐ Check or Money order enclosed. (Make checks payable to New York State Bar Association)
- ☐ Charge \$_____ to:
 - ☐ American Express
 - ☐ Discover
 - ☐ MasterCard
 - ☐ Visa

Card number: _____

Expiration date: _____

Authorized Signature: _____

Fax or mail this form with registration fee(s) to:

Lisa Bataille
New York State Bar Association
One Elk Street
Albany, New York 12207
Phone: 518.487.5680
Fax: 518.463.5993
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NEW YORK STATE BAR ASSOCIATION
TRUSTS AND ESTATES LAW SECTION
ELDER LAW & SPECIAL NEEDS SECTION
One Elk Street, Albany, NY 12207

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