

## Legal Malpractice 2017 Program Agenda

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- 8:30 a.m. - 9:00 a.m.**            **Registration**
- 9:00 a.m. - 9:10 a.m.**            **Welcome and Introduction**
- 9:10 a.m. – 10:00 a.m.**        **Legal Malpractice Causes of Action, Litigation Strategy and Ethics**
- > **Theories of Liability**
    - \* Negligence
    - \* Breach of Fiduciary Duty
    - \* Statutory Liability
    - \* Violations of Disciplinary Rules and Ethical Considerations
    - \* Conflicts of Interest
  - > **Statute of Limitations**
    - \* Claim Accrual
    - \* Continuous Representation Doctrine
    - \* Concealment and Discovery
  - > **Capacity to Sue and Standing**
    - \* Privity
    - \* Ripeness and Mootness
    - \* Collateral Estoppel and *Res Judicata*
    - \* Release and Waiver
  - > **The Standard of Care**
    - \* Negligence, Breach of Fiduciary Duty
    - \* Statutory Liability/Violations of Disciplinary Rules
    - \* Conflicts of Interest
  - > **The Burden of Proof**
    - \* Causation
    - \* Expert Opinions
    - \* Damages
  - > **Trial Tactics and Motion Practice**
    - \* Jury Selection
    - \* Evidentiary Issues
    - \* Expert Testimony
    - \* Jury Instructions
- (1.0 MCLE Credit in Ethics)**
- 10:00 a.m. - 10:50 a.m.**        **Sources of Legal Malpractice Claims & Ethical Considerations**  
*Panel Discussion with Professional Liability Industry Leaders*
- > **Typical Claim Scenarios**
    - \* Conflicts of Interest

- \* Failure to Investigate/Evaluate Claims or Defenses
- \* Failure to Comply with Statute of Limitations
- \* Neglect of Prosecution/Trial Errors
- \* Failure to Protect Secured Interests/Assets/Property

**> Claimants and Vicarious Liability– Who Can Sue and Be Sued**

- \* Liability to Clients/Third-Parties
- \* Liability of Law Firm/Partners for Acts of Another

**> Legal Malpractice Claim Defense Strategy**

- \* Pre-Suit Discussions/Settlement
- \* Discovery/Legal Malpractice Litigation Management
- \* Use of Experts
- \* Motion Practice
- \* Trial Strategies/Tactics

*(1.0 MCLE Credit in Ethics)*

**10:50 a.m. - 11:00 a.m.**

**Break**

**11:00 a.m. – 11:50 a.m.**

**Identifying and Responding to Professional Liability Claims**

**> Claim Notification and Reporting Issues**

- \* What Constitutes a “Claim”
- \* Responding to and Reporting of Potential Claims
- \* Representations in the LPL Application
- \* Notification of Claims

**> What is Covered Under the Typical LPL Policy**

- \* The Scope of Professional Services
- \* Non-Covered Acts, Errors or Omissions
- \* Damages Excluded from Coverage
- \* Intentional Acts/Fraud Exclusions
- \* Typical Exclusions

*(1.0 MCLE Credit in Law Practice Management)*

**11:50 a.m. - 12:45 p.m.**

**Attorney Discipline and Risk Management for Lawyers**

*Discussion of the NYS Attorney Disciplinary Process and Law Firm Risk Management*

- \* Overview of the NYS Disciplinary Process
- \* New Client/Matter Intake



- \* Conflict Management and Avoidance
- \* Engagement Letters/Part 1215 Requirements
- \* Docket and Calendar Management
- \* Billing Systems and Controls
- \* File Closing and Disengagement Letters
- \* Training and Associate Supervision
- \* Fee Actions
- \* Client Management

*(1.0 MCLE Credit in Ethics)*

**12:45 p.m. – 1:00 p.m.**      **Questions and Answers**

**1:00 p.m.**                      **Adjournment**