



## **Northern District of New York Federal Court Bar Association**

### **HANDLING A PRISONER CASE: TRIAL ADVOCACY FOR PRO BONO LAWYERS**

#### **CLE PROGRAM TIMED AGENDA**

**Albany, New York**

**October 2, 2019**

**RSVP by September 25, 2019  
.5 Ethics Credit  
5.5 Skills Credit**

This CLE program is designed to provide practitioners with the information necessary to handle the trial of a prisoner case typically brought under 42 USC §1983. The following areas are covered during the CLE program: (1) Legal Claims of Inmates Under 42 U.S.C. § 1983; (2) Exhaustion of Administrative Remedies and Other Defenses; (3) Ethical Issues; and (4) Substantive and Practical Trial Areas. The panel is comprised of private attorneys, court personnel, judges, and representatives of the New York State Department of Law and New York Department of Corrections and Community Supervision, each of whom will bring unique insight into the litigation process.

**Date:** October 2, 2019  
**Location:** James T. Foley Courthouse, 1st Floor Jury Selection Room,  
445 Broadway Albany, New York 12207  
**Registration:** 8:30 a.m. – 9:00 a.m. (Light Breakfast Provided)  
**Time:** 9:00 a.m. – 3:00 p.m.  
**Skills:** 9:00 a.m. – 11:30 a.m. and 12:00 p.m. – 3:00 p.m.  
**Ethics:** 11:30 a.m. – 12:00 p.m. (Working Lunch Provided)

**Panel:** Michael J. Sciotti, Esq., Barclay Damon LLP (Moderator)  
Honorable Mae A. D'Agostino, U.S. District Judge  
Honorable Daniel Stewart, U.S. Magistrate Judge  
Michael Cassidy, Prisoners' Legal Services  
Assistant Attorney General Greg Rodriguez, NYS Department of Law  
Charles J. Quackenbush, Esq., Deputy Counsel, New York State Department of Corrections and Community Supervision  
Robert C. Whitaker, Esq., Hancock Estabrook, LLP  
Robert A. Barrer, Esq., Barclay Damon LLP

1. **Introduction & Welcome - (9:00 a.m. – 9:05 a.m.)**

Court & FCBA Welcome  
Michael J. Sciotti, Esq.

2. **Legal Claims of Inmates Under 42 U.S.C. § 1983 (9:05 a.m. – 10:30 a.m.)**

3. **Exhaustion of Administrative Remedies and Other Defenses (10:30 a.m. – 11:30 a.m.)**

4. **Ethical Issues (11:30 a.m. – 12:00 p.m.)**

- A. Client has a weapon
- B. Client threatened to escape
- C. Client threats of violence
- D. Noncooperation
- E. Stand-By Counsel Issues
- F. Grievances

5. **Substantive Areas - (12:00 p.m. – 3:00 p.m.)**

- A. Final Pre-Trial Conference
- B. Jury Charges
- C. Jury Verdict Sheet
- D. Trial Brief
- E. Motions in Limine
- F. Exhibit List
- G. Witness List
- H. Evidentiary issues
- I. Trial Presentation

- i. Jury Selection
- ii. Opening Statements
- iii. Plaintiff's Case-In-Chief
- iv. FRCP 50(a) Motion
- v. Defense Case-In-Chief
- vi. Closing Argument
- vii. Charge Conference
- viii. FRCP 50(b) Motion & Post-Verdict Motions

## 6. **Practical Areas**

- A. Selection of Pro Bono Counsel By Court
- B. Logistics of the inmate and dealing with the New York State Department of Corrections and Community Supervision
- C. Contacting the prisoner/Safety Issues
- D. Motion to Withdraw as Counsel
- E. Retainer Agreement
- F. Scope of Appointment & Law Firm Responsibility
- G. What can you expect?
- H. Interaction with visiting judges
- I. Production of prisoner for trial
- J. Costs and the Pro Bono Fund
- K. Use of video at trial & Use of Electronic Courtroom
- L. Witness & Document Subpoenas
  - i. Dealing with the Attorney General's Office
  - ii. What do you do if the file is not complete?
  - iii. Subpoena for other inmates
- M. Consent to trial before Magistrate Judge
- N. CLE Credit for Representation
- O. Empire State Counsel Recognition
- P. Obtaining Assignments
- Q. Prisoner Mediation Program

## 7. **Closing Remarks**