

## **33<sup>rd</sup> ABA National Conference on Professional Responsibility**

### **Wed., May 30, 2007**

6:00-7:30 pm **Welcome Reception**

### **Thurs., May 31, 2007**

8:00-9:00 am **Registration and Continental Breakfast**

9:00-10:25 am **Welcome and Plenary Session**

#### **Are They Just Bad Apples?: Ethical Behavior in Organizational Settings**

It's easy to dismiss lawyers' involvement in recent scandals as the work of a few "bad apples." But there's more to it. The panel will examine social science research suggesting that psychological forces are at play leading honest people to make poor ethical decisions and explore the implications for structuring administrative and compensation systems in legal organizations.

Panel Leader: Arthur J. Lachman

Daylian Cain, John Darley, Milton C. Regan, Ann Tenbrunsel

10:25-10:40 am **Refreshment Break**

10:40-12:00 noon **Breakouts**

#### **The Duty to Report Lawyers' Professional Misconduct**

It's not just about Illinois. Is the exception for Rule 1.6 found in Rule 8.3 as broad as many lawyers in other states might believe? Have the recent amendments to Model Rule 1.6 expanded the reporting duty of those lawyers? The panel will discuss how to encourage compliance and how disciplinary counsel may increase incentives to report.

Panel Leader: Charles B. Plattsmier

Thomas R. Mulroy, Jr., Patricia Annette Sallen

#### **Abusive Tax Shelters: Ethical Pitfalls for Lawyers**

Lawyers have played a critical role in supporting tax shelters deemed abusive, often as de facto collaborators with nonlawyer firms and individuals involved in the development and marketing of those shelters. This panel will discuss how those relationships can undermine clients' ability to assert attorney-client privilege, give rise to self-interest conflicts of interest, and put lawyers at risk of civil and disciplinary liability.

Panel Leader: Mary T. Robinson

Carolyn H. Gray, Royal B. Martin, Jr., Thomas Ross

12:00-1:35 pm **Lunch Break (on your own)**

1:35-2:55 pm **Breakouts**

### **Audit Response Letters -- Will There Be Peace under the Treaty?**

Although the ABA/AICPA "Treaty" governing audit letter practice for lawyers and auditors has been in place for over 25 years, questions and issues continue to arise for lawyers as they prepare audit response letters and respond to special requests from clients and their auditors. This panel will explore some of the challenges faced by lawyers in the current environment.

Panel Leader: Lori S. Gordon  
Thomas D. Morgan, Louis Rorimer, Anne E. Thar

### **Legal Ethics Research Online and Off: A Workshop**

The size and complexity of the Internet and electronic databases have transformed the research landscape. For this workshop, two research librarians will demonstrate print and electronic resources for researching legal ethics, the law governing lawyers, and factual research relevant to legal ethics teaching and practice. Conference themes will be used as sample research problems.

Panel Leader: Lee Faircloth Peoples  
Steve Young

2:55-3:10 pm **Refreshment Break**

3:10-4:30 pm **Breakouts**

### **The Ethics of Aggregate Settlements**

The panel will discuss aggregate settlement ethics issues related to allocation, conditionality, fees and costs, waivers and holdouts, disclosure and consent in class action and non-class action cases.

Panel Leader: Howard Erichson  
Lynn A. Baker, Diane L. Karpman, Paul D. Rheingold

### **Serving as a Legal Ethics Expert**

What are some of the practical and legal pitfalls involved in serving as an ethics expert witness or consultant? Three well-known law professors who serve as legal ethics experts will offer advice based on their experience.

Panel Leader: W. Bradley Wendel  
Steven Lubet, Roy D. Simon Jr., Charles W. Wolfram

4:35-5:15 pm **Michael Franck Award Presentation and Acceptance Speech**

Recipient: Lawrence J. Fox

5:15-7:00 pm **Reception**

**Fri., June 1, 2007**

8:00-9:00 am **Breakfast Buffet**

9:00-10:20 am **Breakouts**

**Law Firm Bullies: What Makes Them Tick and How to Control Them**

Why do some partners in law firms scream at people and throw things? Why might their partners feel helpless to rein them in? How does workplace bullying impact associates, paralegals and secretaries? What may be the legal or other consequences of this conduct? What should law firms do about abusive behavior? This program will explore these questions.

Panel Leaders: Lisa G. Lerman and Mary T. Robinson  
Peter R. Bulmer, Stafford C. Henry, Wm. Marty Martin

**Investigators (and Lawyers) Gone Wild**

Front page criminal charges have been filed against an in-house counsel for supervising an investigation into boardroom media leaks. How far can corporate lawyers and litigators go in using investigators to obtain information for their clients? Are lawyers responsible for the conduct of investigators? What is the criminal, civil and disciplinary liability for directing undercover work?

Panel Leader: James J. Grogan  
Christine A. Edwards, Abdon Pallasch, David J. Stetler

10:20-10:35 am **Refreshment Break**

10:35-11:55 am **Breakouts**

**The In-Firm Attorney-Client Privilege**

Panelists will discuss whether and when the attorney-client privilege should protect internal law firm communications regarding ethical requirements, conflicts of interest, or other loss prevention and risk management issues from forced disclosure to the client of the law firm whose matter is the subject of the internal law firm communication.

Panel Leader: Brian Shannon Faughnan  
Susan Saab Fortney, Aaron E. Hoffman, Thomas P. Luning

**The Buried Bodies Case: Alive and Well after Thirty Years**

Over thirty years ago, two lawyers represented an accused murderer who told them he had killed other teenagers and where their bodies were. The lawyers' struggle to protect these confidences earned them disciplinary and criminal charges and death threats. The case remains a central one in legal ethics instruction. The panel will re-examine the case and its impact.

Panel Leader: Lisa G. Lerman  
Frank H. Armani, Monroe Freedman, Thomas D. Morgan

**Informal Sessions** (No CLE Credit)

1:30 - 3:00 pm **Firm Counsel Project Roundtable**

If you perform an ethics or risk management function within a law firm or corporate law department, this discussion, sponsored by the ABA Business Law Section Committee on Professional Conduct Firm Counsel Project, is for you. Specific topics will be posted as the Conference approaches. For more on the Firm Counsel Project, visit <http://www.abanet.org/dch/committee.cfm?com=CL290005>.

### 1:30 - 3:30 pm **Scholarship Roundtable**

An opportunity for attendees to discuss forthcoming research projects, works in progress, half-baked ideas and scholarship ideas that others might pursue. Priority will be given to those who advise us ahead of time that they have a particular idea to share. E-mail [needhamc@slu.edu](mailto:needhamc@slu.edu) with "Roundtable Speaking Slot" in the subject line. Presenters should plan to spend about five minutes explaining their ideas or posing questions, followed by ten minutes of discussion and feedback. If time permits, there may also be spontaneous conversation about scholarship ideas.

## **Sat., June 2, 2007**

8:00-9:00 am **Breakfast Buffet**

9:00-10:20 am **Breakouts**

### **Embedded Data and Other Invisible Confidences**

Have you really erased your hard drive before discarding it? Are documents you send out sufficiently scrubbed of metadata? What if you receive metadata in a document sent to you by opposing counsel? How do the new Federal Rules regarding e-discovery, ABA Formal Opinion 06-442, Florida Ethics Opinion 06-2, and other local bar opinions relate to these issues?

Panel Leader: David Hricik  
Michael P. Downey, Karen K Phillips

### **Ethics for the Ages: Graceful Graying or Senior Tsunami** (*Joint Program with Client Protection Forum*)

The panel will discuss the aging of the legal profession and its impact on the lawyer regulatory system. What measures can be used to humanely and efficiently address the problems of age-related impairment and illness that are anticipated to arise with increasing frequency among practicing lawyers?

Panel Leader: Donald D. Campbell  
Cynthia L. Galliher, Dr. Caroline Harada, Kim D. Ringler

10:20-10:35 am **Refreshment Break**

10:35-11:55 am **Breakouts**

### **Model Rule 5.6 and the Regulation of "Forfeiture for Competition" Clauses**

This panel will analyze the competing lines of cases and their effect on clients and the profession and discuss whether there should be a categorical rule forbidding any financial price when lawyers depart and will compete with their former firm or, instead, a rule of reason that

recognizes that firms may suffer from a departure and consequent loss of business.

Panel Leader: Ronald C. Minkoff  
Stephen Gillers, Deborah J. Jeffrey, Ellen A. Pansky

**Legal Ethics Clinics: Enlisting Law Students to Assist with Lawyer Discipline**

Law teachers chronically report difficulties in getting students fully engaged in the study of legal ethics. In recent years, clinical and externship programs have begun to develop opportunities for law students to work on lawyer disciplinary matters and to assist in other professional liability matters. This program will explore some of these efforts.

Panel Leader: Robert D. Welden  
Dennis E. Curtis, Mark A. Dubois, Leslie Haley