



FUNDAMENTALS OF FEDERAL CRIMINAL DEFENSE SEMINAR II

**InterContinental Hotel New Orleans
444 St. Charles Avenue
New Orleans, LA 70130
February 23-24, 2023**

AGENDA (2/1/23)

Thursday, February 23, 2023

7:30 to 8:30 a.m. Registration & Continental Breakfast
La Salle Pre-Function Area (3rd Floor)

8:30 to 8:45 a.m. Introduction & Welcoming Remarks
La Salle Ballroom A (3rd Floor)

Claude J. Kelly, Federal Public Defender, Eastern District of Louisiana, New Orleans, Louisiana

Townsend Myers, Federal Public Defender, Eastern District of Louisiana, New Orleans, Louisiana

George Couture, Attorney Advisor, Defender Services Office Training Division, Washington, D.C.

8:45 to 9:45 a.m. Ethics – The Attorney Client Relationship: Crossing All Lines –
La Salle Ballroom A (3rd Floor)

LaRonda R. Martin, Assistant Federal Defender, Office of the Federal Public Defender for the District of Nevada, Las Vegas, NV

Every case begins and ends with the client. The attorney client relationships is the foundation of any preparation for trial or sentencing. If it has not been built, neither will strive. Whether the challenge be race, sexual orientation, language, education, or religious – the attorney client relationship cannot grow without addressing these issues. Join a discussion about building better client relationships.

9:45 to 10:00 a.m. Break
La Salle Pre-Function Area (3rd Floor)

10:00 to 11:15 a.m.

The Essential Role of Investigation in CJA Cases

La Salle Ballroom B (3rd Floor)

Cameron Blazer, *Circuit Public Defender, Charleston, SC*

As cases continue to grow complex with more discovery and information regarding the guilt phase as well as the sentencing phase, the services of a trained and dedicated investigator can be invaluable. Hear from an experienced former Assistant Federal Defender and CJA panel member about the road map towards a successful investigation in all phases of a CJA case. Learn how the investigator can assist throughout the life cycle of a case, including quickly locating and interviewing witnesses, obtaining information from digital and paper records and seeking out information that can be important factors for the court to consider at sentencing. The discussion will include information about how to obtain funding for investigative and other expert services.

11:15 to 11:30 a.m.

Break

11:30 a.m.

to 12:30 p.m.

The Bail Reform Act

La Salle Ballroom B (3rd Floor)

Francisco “Frank” Morales, *Assistant Federal Defender, Southern District of Texas, Corpus Christi, Texas*

Your performance at the bail hearing will be your first strut for your client. Win or lose, your ability to fight goes a long way. In this session, you will learn to maximize your chances of getting your client released on bond under the Bail Reform Act. This session will address pretrial interviews, third party custodians, favorable witnesses, good pre-discovery discovery, ethics issues, the detention hearing, the appeal of a detention order, and release pending appeal.

Lunch (*on your own*)

1:45 to 3:00 p.m.

Pretrial Motions: Stuff to Know to Get the Discovery You Need –

La Salle Ballroom B (3rd Floor)

Kevin Tate, *Senior Litigator, Office of the Federal Public Defender for the Western District of North Carolina, Charlotte, NC*

Tired of simply begging the federal prosecutor for the discovery and materials you need? This session will explore the advantages to taking a proactive, rather than a passive, approach to using multiple pretrial motions in combination with third party subpoenas to get more of the discovery and evidence you need. Learn from the combined perspective of a trial lawyer and a death penalty post-conviction attorney about other avenues, in addition to Rule 16, to obtain discoverable evidence that might be helpful if considered while mounting a defense to any federal criminal prosecution.

3:00 to 3:15 p.m.

Break

La Salle Pre-Function Area (3rd Floor)

- 3:15 to 4:15 p.m.** **Getting the Most Out of Plea Agreements, Cooperation, and Navigating the Dangers of a Proffer**
La Salle Ballroom B (3rd Floor)
Fredilyn Sison, *Assistant Federal Defender, Training Coordinator & Director, Office of the Federal Public Defender for the Western District of North Carolina, Asheville, NC*
- With an overwhelming percentage of clients entering pleas, this session will take a hard look at how to get the most out of deals with the government. Additionally, like it or not, many of our clients intelligently decide cooperation is in their best interests. Unfortunately, proffer sessions can quickly devolve into train wrecks with clients getting no benefit and all the added risk we lose sleep over. This session explores common benefits and dangers associated with cooperation while addressing the many land mines just waiting for your client in the proffer room.
- 4:15 to 4:30 p.m.** **Break**
- 4:30 to 5:30 p.m.** **From Presentence to Release – Avoiding BOP Pitfalls So Your Client Doesn't Serve More Time Than Necessary**
La Salle Ballroom A (3rd Floor)
Stephen Sady, *Chief Deputy Federal Defender, Office of the Federal Public Defender, District of Oregon, Portland, OR*
- This session will provide practical tips if your client faces federal imprisonment. It will include factors to consider for your client to receive the earliest feasible release date.
- 5:30 p.m.** **Adjourn for the Day**

Friday, February 24, 2023

- 7:30 to 8:30 a.m.** **Registration & Continental Breakfast**
La Salle Pre-Function Area (3rd Floor)
- 8:30 to 9:30 a.m.** **Supreme Court Update**
La Salle Ballroom A (3rd Floor)
Andrew Adler, *Assistant Federal Public Defender and Chief of the Appellate Division of the Federal Public Defender, Southern District of Florida, Miami, Florida*
- This session provides an update on recent Supreme Court decisions affecting federal criminal practice, and reviews issues currently under consideration.
- 9:30 to 9:40 a.m.** **Break**
- 9:40 to 10:40 a.m.** **A View from the Bench: Strategies for Skillfully Navigating Evidentiary Issues**
La Salle Ballroom A (3rd Floor)
Honorable Lisa Rau, *Founder, Resonate Mediation and Arbitration (and retired 19-year Judge for the Court of Common Pleas, Philadelphia County), Philadelphia, PA*
- Admitting and excluding evidence can be the crucial difference between winning and losing at trial. Judges generally want to follow the law and do not want their errors to be memorialized in an appellate opinion. Yet, evidentiary issues can be foreseeable, unforeseeable, and tricky. Educating your judge in advance about key evidentiary issues can be the secret to your success at trial. In this session, a seasoned state court trial judge will provide specific strategies to use before and during trial to diplomatically get judges to understand and rule correctly on evidentiary issues and permit you to make your record for appeal.
- 10:40 to 10:50 a.m.** **Break – *La Salle Pre-Function Area (3rd Floor)***
- 10:50 to 11:50 a.m.** **Sentencing Fundamentals: The Legal Framework**
La Salle Ballroom B (3rd Floor)
J. Stephen Roberts Jr., *Trial Attorney, Federal Defenders of Eastern Washington, Spokane, WA*
Amy H. Rubin, *Managing Attorney, Federal Defenders of Eastern Washington, Spokane, WA*
- Each and every one of us representing individuals in federal court must understand sentencing. To be effective sentencing advocates, we must know our clients, our cases, and the legal framework that shapes and governs sentencing. This session focuses on the fundamentals of sentencing law, from the Constitution to the statutes, to the guidelines. Attendees will be introduced to 18 U.S.C. § 3553 and other relevant

statutes. We also will tour the guidelines manual, with an eye towards understanding its basic structure and the theories on which it operates. A solid grasp of these basics will reveal there is both room and need for creative sentencing advocacy. It takes understanding this legal framework, where it is rigid and where it bends, to effectively advocate for the best possible outcomes for our clients.

10:50 a.m. – 11:50 a.m. Sentencing Fundamentals: The Legal Framework

La Salle Ballroom B (3rd Floor)

J. Stephen Roberts Jr., *Trial Attorney, Federal Defenders of Eastern Washington, Spokane, WA*

Amy H. Rubin, *Managing Attorney, Federal Defenders of Eastern Washington, Spokane, WA*

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11:50 a.m. Adjournment—The Winning Strategies Seminar continues after lunch—Fundamentals Seminar attendees are welcome and encouraged to join the remainder of the Winning Strategies Seminar