



**TRIAL SKILLS WORKSHOP I:
ADVOCACY STRATEGIES & SKILLS
TO MAXIMIZE USE OF EXPERTS**

**ADMINISTRATIVE OFFICE OF THE U.S. COURTS
DEFENDER SERVICES OFFICE TRAINING DIVISION**

**DOUBLETREE BY HILTON HOTEL AUSTIN
6505 NORTH INTERSTATE 35 NORTH, AUSTIN, TX 78752
April 4-6, 2018**

Draft AGENDA (2/8/19)

Thursday, April 4, 2019

7:30 - 8:30 a.m. Registration - Continental Breakfast

8:30 - 8:40 a.m. Welcoming Remarks

Maureen S. Franco, Federal Public Defender, Office of the Federal Public Defender, Western District of Texas, San Antonio, TX

8:40 - 8:50 a.m. Introduction to the Workshop

Kyana Givens, Visiting Attorney Advisor, Training Division, Defender Services Office, Washington, DC, Assistant Federal Public Defender, Western District of Washington, Seattle, WA

8:50 - 10:00 a.m. PLENARY SESSION 1: The Doctor is In!

Colette Tvedt, Criminal Defense Attorney, Tvedt Law, Denver, CO

The first part of this plenary presentation is an overview of the guiding principles we will utilize throughout this workshop: “Expert i.C.P.R.”. These four principles will help you effectively select, prep, and examine experts for litigation. The second part of this presentation will outline techniques you will need to create theme-based cross-examinations and story-rich direct examinations.

10:00 - 10:15 a.m. Break

10:15 - 11:15 a.m. PLENARY SESSION 2: Litigating Competency

Anthony “Tony” Natale, *Supervising Assistant Federal Public Defender, Office of the Federal Public Defender Southern District of Florida, Miami, FL*

Dr. Patricia A. Zapf, *John Jay College of Criminal Justice, The City University of New York, New York, NY*

This plenary presentation will include the legal standards of competency as described in 18 U.S.C. §4241-§4248, an explanation of the established psychological test(s) used, and how the results can be used beyond the context of competency.

11:15 a.m. - 12:15 p.m. WORKSHOP SESSION I: Brainstorming for Client Interviews and Records Collection

Participants will meet with their small group facilitators to brainstorm the model case problem to develop persuasive mitigation theories and potential experts.

12:15 - 1:30 p.m. Lunch – Bonus Session for CJA Attorneys*

Vouch for Your Voucher

Sharon Samek, *Attorney Advisor, Legal & Policy Division, Defender Services Office, Washington, DC*

This session is primarily for CJA attorneys and will focus on the court rules and best practices for submitting expert requests to the court. This session will also cover how to write persuasive expert requests that the court will honor and fund, and how to educate the court about your theory of the case in your ex-parte submissions.

**(Pre-ordered box lunches will be available for purchase by participants in the assigned room.)*

1:30 - 3:30 p.m. WORKSHOP SESSION II: Screening, Interviewing & Qualifying Experts

This session focuses on interviewing experts to make sure that your theory and supporting science match...i.e., you have the right expert for your diagnosis and case objective. Participants will also learn how to qualify their experts in court.

3:30 - 3:40 p.m. Break

3:40 - 4:00 p.m. DEMO: How to Identify Mental Disease or Deficits and Interviewing your Client for Experts and Records Collection

4:00 - 5:00 p.m. PLENARY SESSION 3: Can I Get This In? When and How to Use Evidence Rules to Effectively Support Your Case Theory
Brent Newton, *Former Federal Public Defender, Southern District of Texas, Houston, TX*

This session will explore the evidence rules to make sure that your expert is qualified and any source documents, reports, or other diagnostic tools gets admitted into court. The focus of this session will be on the following rules of evidence: FRE 104(a), 401, 402, 403, Rev.404(b), 702, 703, 704, 705, 706, 901, 902, & 903 & 1101(d)(1).

5:00 p.m. Adjourn for the Day

Friday, April 5, 2018

7:30 - 8:30 a.m. Continental Breakfast

8:30 - 10:00 a.m. WORKSHOP SESSION III: Evidentiary Arguments

Participants will work through evidentiary problems and take turns doing the defense and counter argument(s).

10:00 - 10:15 a.m. Break

10:15 a.m. - 12:30 p.m. WORKSHOP SESSION IV: Cross-Examination of a Government Expert

In this session, we will focus on the chapter method of crossing a government expert by identifying known areas of weakness that usually fall into several broad categories. Participants will develop crosses on particular types of challenges (i.e. Insufficient Expertise, Insufficient Scientific Validation, Bias etc.).

12:30 - 1:45 p.m. Lunch - On Your Own

1:45 - 3:00 p.m. WORKSHOP SESSION IV: Cross-Examination of a Government Expert (Continued)

3:00 - 3:15 p.m. Break

3:15 - 5:00 p.m. WORKSHOP SESSION V: Direct Examination of Defense Experts
This session will focus on direct examinations of experts.

5:00 - 5:15 p.m. DEMO: Direct Examination of a Defense Expert

5:15 - 5:30 pm DEMO: Cross-Examination of Defense Expert

5:30 p.m. Adjourn for Day

Saturday, April 6, 2019

7:30 - 8:30 a.m. Continental Breakfast

8:30 - 9:30 a.m. PLENARY SESSION 4: Daubert Litigation
Jennifer Freidman, Deputy Public Defender, Law Offices of Los Angeles County Public Defender, Los Angeles, CA

This session will look at investigating and challenging forensic firearms comparison as a backdrop to informing Daubert litigation. The use by the government of forensic pattern impression evidence has become ubiquitous in criminal cases with experts making claims that often overstate what existing scientific research supports. During this session, we will discuss how to investigate and prepare to litigate the admissibility of pattern impression evidence and how to challenge it in trial using firearms comparison as an example.

9:30 - 9:50 a.m. DEMO-Qualifying Experts

9:50 - 11:50 a. m. WORKSHOP SESSION VI: Daubert & Sell Hearing Skills Sessions

This session will focus on making a summary opening argument on a Daubert challenge followed by a Daubert-focused direct or cross-examination of an expert.

11:50 a.m. Break
- 12:00 a.m.

12:00 - 1:15 p.m. PLENARY SESSION 5: Expert Ethics-Who's Choices?
Speaker TBD

This session will explore the testifying role and non-testifying role of experts. We will focus on the ethical implications of disclosing expert reports and disclosing expert consultation, we will discuss the ethical dilemmas related to using experts and we will discuss lawyer-directed vs. client-directed decision making when mental disease or defect is present.

1:15 p.m. Closing Remarks/Adjournment