

Legal Malpractice 2017

Professional Liability Claims, Litigation Strategies, and Attorney Disciplinary Procedures

Friday, March 10, 2017

Westchester | Elmwood Country Club

Friday, March 17, 2017

Rochester | RIT Inn & Conference Center

Friday, March 24, 2017

NYC | CUNY Graduate Center |  Webcast

Friday, March 24, 2017

Albany | New York State Bar Association

Friday, March 31, 2017

Long Island | Melville Marriott



INCLUDES
3.0 ethics credits

NYSBACLE

Each program is a half-day CLE from 9:00 a.m. - 1:00 p.m.

Reasons to Attend:

- Learn about sources of Legal Malpractice Claims and Ethical Considerations
- Learn how to identify and respond to Professional Liability Claims
- Engage in discussion about the NYS Attorney Disciplinary Process and Ethical Considerations for Lawyers
- Earn 4.0 MCLE Credits including 3.0 Ethics

\$125 for NYSBA Members

[www.nysba.org/
LegalMalpracticeCLE](http://www.nysba.org/LegalMalpracticeCLE)



PROGRAM DESCRIPTION

Lawsuits against lawyers arising from errors and/or omissions in the performance of legal services continue to rise. It is an essential part of a law firm's business practice to evaluate its legal risk and malpractice insurance needs. This program is designed to educate attorneys on how to prosecute and/or defend a legal malpractice action. In addition, this program will educate attorneys about their legal malpractice exposures, what they should do in the event that a lawsuit or a grievance complaint is filed against them, and what they should do when situations arise that indicate that a legal malpractice claim is likely. Both solo practitioners and members of larger firms would benefit from knowing how to assess professional liability risk and manage legal malpractice litigation.

You will learn to:

- > Identify potential legal malpractice claims and avoid professional liability risk
- > Identify the main elements of a legal malpractice suit
- > Prosecute and defend a legal malpractice action through trial
- > Understand the Attorney Disciplinary Process
- > Interact with professional liability insurance companies

This program will bring you up-to-date on these important issues.

Earn **4.0** MCLE Credits, including 3.0 in Ethics and 1.0 Credit in Areas of Law Practice Management.

Sponsored by the Torts, Insurance and Compensation Law Section, the Trial Lawyers Section and the Law Practice Management Committee of the New York State Bar Association.

PROGRAM FACULTY

Overall Planning Chair:

A. Michael Furman, Esq. | Furman Kornfeld & Brennan LLP | NYC

Local Chairs:

Albany

Scott W. Bush, Esq. | Corrigan, McCoy & Bush, PLLC | Albany

New York City

A. Michael Furman, Esq. | Furman Kornfeld & Brennan LLP | NYC

Long Island

Marian C. Rice, Esq. | L'Abbate, Balkan, Colavita & Contini, LLP | Long Island

Westchester

Lisa L. Shrewsberry, Esq. | Traub Lieberman Straus & Shrewsberry LLP | Westchester

Rochester

Dennis R. McCoy, Esq. | Barclay Damon LLP | Rochester

Learn more about the program faculty at www.nysba.org/LegalMalpracticeCLE

4.0 TOTAL CREDITS:

3.0 ethics; 1.0 areas of law practice management

This course has been approved for MCLE credit in New York for all attorneys, including newly admitted (less than 24 months).

This program has also been approved for MCLE credit by the **State Bar of California** and the **Pennsylvania Continuing Legal Education Board** for 0.5 credit hours of substantive law and 2.5 credit hours of ethics. All inquiries regarding MCLE credits may be directed to (518) 487-5606.

This program has been approved by the **Board on Continuing Legal Education of the Supreme Court of New Jersey** for 4.1 hours of total CLE credit. Of these, 3.1 qualify as hours of credit for ethics/professionalism, and 0.0 qualify as hours of credit toward certification in civil trial law, criminal trial law, workers compensation law and/ or matrimonial law. This course does not qualify under any of the nine specified new admit areas, in five of which New Jersey attorneys admitted in 2009 or thereafter, in their first full two-year compliance period, must take 15 of their 24 required credit hours (see BCLE Reg. 201:2).

This course includes no credit hours for the Continuing Professional Education (CPE) requirements of New York and New Jersey CPAs. Sponsor Numbers: New York: 000026; New Jersey: 20CE00099900.

The New York State Bar Association's Committee on Continuing Legal Education has been certified by the New York State Continuing Legal Education Board as an accredited provider of continuing legal education in the State of New York.

IMPORTANT NOTICE: PARTIAL CREDIT FOR PROGRAM SEGMENTS NOT ALLOWED. Under the New York State Continuing Legal Education Board Regulations and Guidelines, attendees at CLE programs cannot receive MCLE credit for a program segment unless they are present for the entire segment. Persons who arrive late, depart early, or are absent for any portion of the segment will not receive credit for that segment.

AGENDA

8:30 a.m. – 9:00 a.m.

Registration

9:00 a.m. – 9:10 a.m.

Welcome and Introductions

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 and 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**

PROGRAM LOCATION

Each program is a half-day CLE from 9:00 a.m. – 1:00 p.m.

Friday, March 10, 2017 | Westchester

Elmwood Country Club | 850 Dobbs Ferry Road | White Plains, NY 10607

Live Program | www.nysba.org/LegalMalpractice2017Westchester

Friday, March 17, 2017 | Rochester

RIT Inn & Conference Center | 5257 West Henrietta Road | Rochester, NY 14467

Live Program | www.nysba.org/LegalMalpractice2017Rochester

Friday, March 24, 2017 | Albany

New York State Bar Association | One Elk Street | Albany, NY 12207

Live Program | www.nysba.org/LegalMalpractice2017Albany

Friday, March 24, 2017 | New York City

CUNY Graduate Center | 365 Fifth Ave | New York, NY 10016

Live Program & **Webcast** | www.nysba.org/LegalMalpractice2017NYC

Friday, March 31, 2017 | Long Island

Melville Marriott | 1350 Walt Whitman Road | Melville, L.I., NY 11747

Live Program | www.nysba.org/LegalMalpractice2017LongIsland

Webcast

Can't Attend in Person? This program offers a simultaneous live webcast option allowing you to "attend" the program from the convenience of your home or office. NOTE: Newly admitted attorneys must attend in person to receive New York MCLE Credit.

JOIN THE CONVERSATION



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NYSBA LPM: [@nysbaLPM](https://twitter.com/nysbaLPM)

PRICING

NYSBA Members - \$125 | Non-Members - \$225

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Phone: 1-800-582-2452

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Best Practices in Legal Management

This is the most complete and exhaustive treatment of the subject of the business aspects of running a law firm available anywhere. Approximately 90 law practice management experts were asked to submit what they considered best practices for managing all “back office” functions of a law firm. This comprehensive textbook provides practical tips and best practices as well as useful forms and templates.



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INFORMATION AND POLICIES

Pre-registration Strongly Advised: You can save money and guarantee your seat and course materials by registering early. Seating is limited in all locations and registrations are taken on a first-come, first-served basis.

Cancellations Are Easy – Full Refunds Are Given: Your full registration fee will be refunded if you give us notice no later than the close of business (4:45 p.m. EST) three business days prior to the date of the program for which you registered. Registrations canceled less than three business days from the program date will be assessed a cancellation fee of \$25.00. To cancel, call or email the Member Resource Center at (800) 582-2452 or mrc@nysba.org. If you do not cancel and do not attend the program, access to a complete set of course materials in PDF format will be forwarded to you via e-mail in consideration of the registration fee. Non-registrants may purchase program materials after the final program date.

MCLE Credit: This program is acceptable for MCLE credit in New York and many other MCLE jurisdictions.

Tuition Assistance: New York attorneys may apply for tuition assistance to attend this program based on financial hardship. Any New York attorney who has a genuine financial hardship may apply for tuition assistance for a CLE program by completing a Tuition Assistance Request Form and returning it to the CLE Department no later than five working days prior to the program, explaining the basis of his/her hardship. If granted, the attorney will receive tuition assistance, depending on the individual's circumstances. For more details, please contact Holly Murray at (518) 487-5586.

Recording of NYSBA Seminars in any form is strictly prohibited.



Accommodations for Persons with Disabilities: NYSBA welcomes participation by individuals with disabilities. NYSBA is committed to complying with all applicable laws that prohibit discrimination against individuals on the basis of disability in the full and equal enjoyment of its goods, services, programs, activities, facilities, privileges, advantages, or accommodations. To request auxiliary aids or services or if you have any questions regarding accessibility, please contact Cindy O'Brien at (518) 487-5585 or cobrien@nysba.org.

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NYSBA Law Practice Management

Whether you're a solo practitioner or a managing partner at a national law firm, you'll find law practice management resources to meet your day-to-day practice needs. Checklists, best practices, publications, and continuing legal education programs provide up-to-date information and practical tips to help you better manage your law practice.

Starting a Practice | Managing Your Practice | Protecting Your Practice | Technology and Your Practice
Marketing Your Practice | Escrow Accounts, IOLA, Ethics | Selling Your Practice and Retirement | Planning Ahead

www.nysba.org/LPM

Legal Malpractice 2017

4.0 MCLE Credits
3.0 Ethics | 1.0 LPM

9:00 a.m. – 1:00 p.m.

Albany | Long Island | NYC
Rochester | Westchester

\$125 for NYSBA Members
\$225 for Non-Members

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LegalMalpracticeCLE](http://www.nysba.org/LegalMalpracticeCLE)

4 WAYS TO REGISTER

- Call** **1.800.582.2452** (U.S. and Canada) or **518.463.3724** in Albany & surrounding area
- Mail** New York State Bar Association, Member Resource Center, One Elk Street, Albany, NY 12207
- Fax** **518.463.5993**
Download an order form online at www.nysba.org/CLEOrderForm
- Online** www.nysba.org/CLE
www.nysba.org/LegalMalpracticeCLE

Please Note

- Registrations canceled less than three days from the program date will be assessed a \$25.00 cancellation fee.

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