
Below is the agenda for the
2006 COMPLEX LITIGATION SEMINAR

To view written materials produced in conjunction with a particular session at the seminar, click on the [blue link](#) to that agenda item.

Please note that the absence of a link for a specific session indicates that the presenter did not provide any written materials for that session.

Note for Mac Users: The links in this agenda will only function on a PC. If you do not have access to a PC and would like to view the materials in conjunction with a particular session, please send a request to [Lisa Porcari](#). Select materials from this program are also accessible through the Topics Menu on the left side of the Training Materials & Other Publications Page on www.fd.org.

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

**Complex Litigation Seminar
September 7-9, 2006
Renaissance Atlanta Hotel Downtown
Atlanta, GA**

Final Agenda

Thursday, September 7, 2006

- 7:30 to 8:30 A.M. **Registration - Atlanta A&B Foyer, Ballroom Level**
- 8:30 to 8:45 A.M. **Welcoming Remarks - Atlanta A&B, Ballroom Level**
Lori A. Green, Attorney-Advisor, Training Branch, Office of Defender Services, Washington, D.C.
Stephanie Kearns, Executive Director, Georgia Federal Defender Program, Inc.
- 8:45 to 9:30 A.M. **Keynote Speech - Atlanta A&B, Ballroom Level**
*“The Post Katrina World of Criminal Defense:
One Step Forward, Two Steps Back (a/k/a The Cajun Two Step)”*
Virginia Schlueter, FPD, Eastern District of Louisiana
- 9:30 to 10:30 A.M. **Computer Crimes - Atlanta A&B, Ballroom Level**
G. Patrick Black, FPD, Eastern District of Texas
This session will focus on federal computer and internet crimes including hacking, identity theft, cyberstalking, unauthorized passwords, and fraud. It will also provide tips on how to investigate an alleged computer crime. Additionally, the session will focus on child pornography cases with an in-depth discussion of statutes, constitutional issues, search and seizure, pretrial detention, sentencing guidelines and other related issues.
- 10:30 to 10:45 A.M. **BREAK - Atlanta A&B Foyer, Ballroom Level**

10:45 to 11:45 A.M. **Concurrent Breakout Sessions**

1. Understanding Child Pornography Cases

Lenox Room, Ballroom Level

Ron Tyler, AFPD, Northern District of California

Troy Schnack, CSA, Western District of Missouri

This session explores legal and technical issues in defending internet child porn cases, as presented by a lawyer and a computer systems administrator. Attendees will be exposed to the statutory and technical fundamentals; discovery issues; pretrial motions; forensic investigation and defense theories.

2. Identity Theft - Buckhead Room, Ballroom Level

J. Martin Richey, AFPD, District of Massachusetts, Visiting Attorney-Advisor, Training Branch, Office of Defender Services, Washington, D.C.

Identity theft is the crime du jour. This session will provide an overview of federal identity theft cases, including a review of the relevant statutes and sentencing guidelines, and potential pretrial, trial, and sentencing issues.

3. Copyright Infringements - Atlanta D, Ballroom Level

Kevin Tate, AFPD, Federal Defenders of Western North Carolina, Inc.

What's the big deal when all your client was doing was downloading a couple of tunes? This session explores how to analyze and defend these cases.

4. Wire Fraud: A Case Study - Atlanta C, Ballroom Level

Timothy R. Anderson, Esq., Law Offices of Timothy R.

Anderson, Minneapolis, MN

This session analyzes the defense strategies from start to finish of a complex, single-defendant wire fraud case, where the defendant used telephones and Western Union wires to allegedly defraud numerous investors in a high yield, low risk investment scheme.

5. Computer Search Warrants: Fourth Amendment Issues and Litigation Strategies - Atlanta A&B, Ballroom Level

Karl P. Numinen, Pence and Numinen, P.C., Marquette, MI

Jerry Grant, Acting Chief, National IT LAN Application and Policy Support Team

Does a warrant authorizing the seizure of a computer allow the government to search the contents of the hard drive? If it does, are there any time restraints upon the search? Searches and seizures of computers raise novel issues that are worth considering when defending your client. This session addresses this new and expanding area.

11:45 A.M.
to 1:00 P.M.

LUNCH

1:00 to 2:00 P.M.

Repeat Concurrent Breakout Sessions

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2:00 to 3:00 P.M.

Litigating Multi-Defendant Conspiracy Cases

Atlanta A&B, Ballroom Level

Jon Sands, FPD, District of Arizona

Most of the cases that are being paneled are co-defendant cases, primarily conspiracies. These cases are increasingly focusing on gangs and charging CCEs and RICO. This session will discuss what the government has to show to prove a bona fide conspiracy; what motions (severance, bill of particulars, exclusion of evidence, etc.) to file; how to find out who their informants are; and how to get interviews with them.

3:00 to 3:15 P.M.

Break

3:15 to 4:15 P.M.

Concurrent Breakout Sessions

1. Gangs - Lenox Room, Ballroom Level

Leeza Cherniak, Esq., Law Office of Leeza Cherniak,
Atlanta, GA

This session will focus on defending a RICO gang case from bond hearing to sentencing, with a specific focus on creative motions, plea negotiations and sentencing. It will also provide tips on how to investigate gang cases and how to develop defenses for use at trial or plea negotiation and sentencing, such as whether an “enterprise” even exists and whether the acts attributed to your client were in furtherance of the enterprise or were actually gang activity.

2. Wiretaps - Buckhead Room, Ballroom Level

Steven Kalar, Senior Litigator, Northern District of California
Josh Cohen, AAFP, Northern District of California

A step by step discussion of how to attack wiretap evidence.

3. Jury Instructions - Atlanta D, Ballroom Level

Susan Jewell Walsh, Esq., Gould, Reimer, Walsh, Goffin, Cohn, LLP, New York, NY

A discussion of how to prepare jury instructions and special verdict forms that address the issues that arise in complex cases, including unanimity instructions, conspiracy instructions and other instructions relevant to multiple count and multiple defendant cases.

4. Alien Smuggling - Atlanta C, Ballroom Level

Francisco Morales, AFPD, Western District of Texas

This session will address the issues that arise in alien transporter cases, including a discussion of the elements of proof, potential pretrial motions and the use of deposition testimony in these cases.

5. White Collar/Fraud - Atlanta A&B, Ballroom Level

Paul Kish, Esq., Kish and Leitz, P.C., Atlanta, GA

So called “white collar” and fraud crimes often result in highly complex prosecutions which can create huge headaches for defense counsel. This presentation will focus on the somewhat different type of client often involved in such matters, including the difficult issues that arise when the defendant is a professional and/or the case generates significant publicity. Furthermore, this session will look at the types of white collar and fraud prosecutions that often become complex, discovery and document management issues, specialized assistance in certain areas, motions practice, and sentencing questions.

4:20 to 5:20 P.M.

Repeat Concurrent Breakout Sessions

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5:30 to 7:00 PM

Reception - 590 West C, 25th Floor

Friday, September 8, 2006

8:30 to 9:30 A.M.

Discovery Organizational Issues

Atlanta A&B, Ballroom Level

Steven Kalar, Senior Litigator, Northern District of California

Sean Broderick, Paralegal, Northern District of California

A discussion of issues related to organizing both paper and electronic discovery and organizational techniques and software applicable to all forms of documents.

9:30 to 10:30 A.M.

Breakouts/Small Group Discussions: Organizing Documents (Paper and Electronic), Creating a Database/Index/Consistent Format/Log

Breakout sessions will allow seminar participants to see demonstrations of four types of software.

1. Case Organization Software Demonstrations

(Casemap) Lenox Room, Ballroom Level

Jerry Grant , Acting Chief, National IT LAN Application and Policy Support Team

Ben Solis, CSA, Federal Defenders of San Diego

2. Case Organization Software Demonstrations (Adobe Acrobat) - Buckhead Room, Ballroom Level

Jennifer McCann, CSA, Federal Defenders of Eastern Washington and Idaho

Ken Morris, CSA, Georgia Federal Defender Program

3. Case Organization Software Demonstrations (Filemaker)

Atlanta D, Ballroom Level

Sean Broderick, Paralegal, Northern District of California

Erica Voskuhl, Paralegal, Western District of Michigan

4. Introduction to Catalyst Repository Systems, Inc., CaseShare, a Web Based Case Organizational Program

Atlanta C, Ballroom Level

Jeff Flax, National Litigation Support Administrator, Bloomfield, CO

10:30 to 10:45 A.M.

Break - Atlanta A&B, Ballroom Level

10:45 to 11:45 A.M.

Breakouts/Small Group Discussions: Organizing Documents (Paper and Electronic), Creating a Database/Index/Consistent Format/Log

Repeat of 9:30 am sessions

11:50 A.M.
to 12:50 P.M.

Experts - When You Should Consider Using Them and How to Obtain Them - Atlanta A&B, Ballroom Level

Eric Vos, AFD, District of Maine

A discussion of the use of experts in a criminal case, both pretrial and during trial, including admissibility of evidence, qualifying the expert to testify and cross-examining the government's expert.

12:50 to 2:00 P.M. **Lunch**

2:00 to 3:00 P.M. **Expert Breakouts**

1. DNA - Lenox Room, Ballroom Level

Ed Ungvarsky, Special Counsel to the Director, Public Defender Service for the District of Columbia, Washington, D.C.

The basics of defending a case involving DNA, including an introduction to DNA evidence, the various types of DNA, the science of typing techniques, problems associated with DNA typing presentation, how to make discovery requests in DNA cases, and the evidentiary issues involved in using DNA at trial.

2. Computer Forensics - Buckhead Room, Ballroom Level

Jerry Grant, Acting Chief, National IT LAN Application and Policy Support Team

Troy Schnack, CSA, Western District of Missouri

All is not as it seems when it comes to computers. Is what's on the screen really there? And how did it get there? Does it belong to your client? Who put it there and when did it get there? These questions may be key to your defense. This session addresses those and similar issue that arise in cases involving computers.

3. Mental Health - Atlanta D, Ballroom Level

Jeffrey Lindy, Esq., Law Office of Jeffrey M. Lindy, Philadelphia, PA

Is your client a difficult personality? Does he/she have mental health issues that impact his/her ability to assist the defense? Does the condition provide a defense or significant mitigation evidence? Learn about the signs that could indicate the need for further evaluation and what to do with the information once you have it.

4. Getting Eyewitness Reliability Science into the Courtroom: Using the Psychological Research to Challenge Eyewitness Testimony Before and During Trial

Atlanta C, Ballroom Level

Timothy P. O’Toole, Chief, Special Litigation Division, Public Defender Service for the District of Columbia, Washington, D.C. *This session will train lawyers on the psychological research surrounding eyewitness identifications, how to work with eyewitness experts and how to incorporate the psychological research into motions practice, case theories and jury instructions. The session will also discuss current legal trends toward consideration of the psychological research, the unique need for eyewitness identification experts, how to overcome resistance to expert testimony on eyewitness reliability issues, and some nuts and bolts issues about how to work with the expert in the pretrial and trial context. The materials for the session will include model pleadings, articles geared toward practitioners, jury instructions, sample FOIA letters and case law outlines.*

5. Firearms - Atlanta A&B, Ballroom Level

Gary Schwabe, Jr., AFPD, Eastern District of Louisiana *What is a firearm? The definition matters in firearm prosecutions. Operability and other characteristics are important factors. Don’t give the government the benefit of the doubt. Learn about the issues that can help win firearm cases or at least save your client from excessive sentences due to incorrect application of firearms enhancements.*

3:05 to 4:05 P.M.

Repeat Expert Breakouts

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4:05 to 4:20 PM

Break - Atlanta A&B Foyer, Ballroom Level

4:20 to 5:20 PM

Supreme Court Update - Atlanta A&B, Ballroom Level

Paul Rashkind, AFD, Southern District of Florida

Have there been other criminal cases since Booker/Fanfan? Find out what other significant criminal decisions have been handed down and what others are forthcoming.

Saturday, September 9, 2006

8:30 to 9:30 A.M. **Concurrent Breakout Sessions**

1. Challenging Criminal History Calculations - Lenox Room, Ballroom Level

Vionette Johnson, AFPD, Georgia Federal Defender Program
The purpose of this session is to look beyond what the probation officer says in the PSR to lower your client's criminal history score. Among the points to be covered are the scoring of priors in complex cases where the prior conviction may be part of the relevant conduct; and challenging the predicates for career offender, armed career criminal and 3 strikes by looking at the definitions of crime of violence, controlled substance offense, violent felony, serious drug offense, and robbery "in certain cases." Uncounseled convictions, timing issues and the teachings of Taylor and Shepard will also be discussed.

2. Plea Negotiations - Buckhead Room, Ballroom Level

Manny Atwal, AFPD, District of Minnesota
A discussion of how to negotiate a plea, with particular focus on providing charge alternatives that limit a client's exposure, and avoiding pitfalls as you guide your client through proffers to the government.

**3. Cross-Examination of Cooperating Co-Defendants
Atlanta D, Ballroom Level**

Brian Steel, Esq., The Steel Law Firm, Atlanta, GA
An effective cross-examination begins before you enter the courtroom. This session addresses cross-examination techniques with an emphasis on the need to fully investigate the background of the witness. This includes knowing the details of his/her deal with the government and any other direct or indirect benefits which result from his/her cooperation with the prosecution.

**4. Using a Mitigation Specialist and Presenting a
Comprehensive Case for Mitigation at Sentencing
Atlanta C, Ballroom Level**

Susan Wardell, LCSW, JD, MitigationSouth, Atlanta, GA
This session will discuss the development of mitigation evidence, what a mitigation specialist does and offer practical advice on how to use one. It will also provide tips on how you or your investigator/paralegal can do the mitigation legwork. Finally, there will be a discussion on how to effectively present mitigation evidence through the sentencing memo and at a sentencing hearing.

5. Affirmative Defenses - Atlanta A&B, Ballroom Level

Shelia Myers, Esq., Law Office of Shelia Myers,
New Orleans, LA

How can the government prove every element of the charged offense but the defendant still be innocent? This discussion of affirmative defenses – self-defense, duress, entrapment and others – will focus on what they are and, more importantly, what it takes to permit a jury to consider them.

6. Getting the Resources That You Need to Defend Your Client: All You Need to Know About CJA Guidelines and Procedures - Rosewell Room, Ballroom Level

Jeanne DeKolver, CJA Supervising Attorney,
Northern District of California,
Randall Schnack, CJA Supervising Attorney,
Central District of California

Donna Shearer, CJA Supervising Attorney, District of Maryland
This session will discuss how to obtain funding when you need technical and other litigation support and offer you an opportunity to ask very knowledgeable and experienced panel experts/administrators any questions you have about CJA administrative policies.

9:30 to 10:30 A.M.

Ethical Issues in Representing Clients in a Multi-Defendant Case - Atlanta A&B, Ballroom Level

Miriam Conrad, FPD, District of Massachusetts

This session will explore the issues presented when there are multiple defendants in a case, including the use of JDAs. It will also provide guidance in evaluating the benefits of JDAs and enforcing their terms. Ethical and attorney-client privilege issues as they arise in the context of JDAs will also be discussed, along with how to deal with issues that arise when family members or close associates are codefendants or are otherwise involved in the case.

10:30 to 10:45 A.M.

Break - Atlanta A&B Foyer, Ballroom Level

10:45 to 11:45 A.M.

Trial Director and Power Point: Handling Exhibits During Trial - Atlanta A&B, Ballroom Level

Jeff Rutherford, Esq., Lightfoot, Vandavelde, Sadowsky,
Crouchley, Rutherford & Levine, Los Angeles, CA

The focus of this plenary will be on how to use Trial Director and Power Point during trial to break down complex issues and evidence for a jury by using demonstrative aides.

11:45 A.M.
to 12:45 P.M.

Immigration Issues - Atlanta A&B, Ballroom Level

Linda Osberg-Braun, Esq., Miami, FL

Knowing the consequences of a particular conviction on your client's immigration status makes a difference. Find out so that you know whether a conviction subjects your client to deportation and can factor that into your plea negotiations and considerations.

12:45 to 1:00 P.M. **Closing Remarks - Atlanta A&B, Ballroom Level**