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2020 White Collar Practice Webinar



November 19-20, 2020

Virtual Conference

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12 CLE Credit Hours

Presented by the Pennsylvania Association of Criminal Defense Lawyers

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White Collar Practice Webinar Registration

Register via mail, fax, email or online with payment no later than November 18, 2020. Registration payment may be made by credit card online or by check sent to PACDL. Contact information:

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Registration Fees

Webinar Registration	Nonmember	Member
Thursday & Friday (12 credits)	\$475	\$350
Thursday only (6 credits)	\$350	\$225
Friday Only (6 credits)	\$350	\$225

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2020 White Collar Virtual Conference

THURSDAY, NOVEMBER 19, 2020

9:00 a.m. A New Landscape? Federal Sentencing Post First-Step Act.
We will discuss how to use the First Step Act as an effective tool in your practice. Topics will include the Hon. John Gleeson's pioneering work using the First Step Act to target unjust sentences, the First Step Act's uses in the COVID-era, and what the Act's implementation could look like in the future. We will also discuss the new risk assessment tool developed in response to the First Step Act, the Prisoner Assessment Tool Targeting Estimated Risk and needs (PATTERN), and how it is being implemented by the Federal Bureau of Prisons. This will be a valuable session for all practitioners who represent individuals through sentencing.
Moderator and Presenters: Mira Baylson (*Cozen O'Connor*), Hon. John Gleeson (*Debevoise & Plimpton*) and James E. Felman (*Kymes, Markman & Felman*)

10:30 a.m. Break

10:45 a.m. Navigating Parallel Proceeding Concerns In Complex Antitrust Multidistrict Litigation.
The United States District Court for the Eastern District of Pennsylvania is currently overseeing a large, multidistrict litigation based on complaints brought by State Attorneys General along with private plaintiffs alleging antitrust claims against generic pharmaceutical manufacturers. At the same time, the U.S. Department of Justice has been conducting a years-long criminal investigation based on similar allegations. This panel will focus on the complexities of navigating these parallel proceedings while attempting to simultaneously protect the companies (and their individual employees) from civil and criminal liability. Topics will include the application of the Act of Production Doctrine, the pros, cons and dynamics of large joint defense groups in complex cases, and handling Fifth Amendment issues in civil discovery.
Moderator and Presenters: Seth Moskowitz (*Kasowitz Benson Torres*), Ryan T. Becker (*Fox Rothschild*) and Sarah Kirkpatrick (*Williams & Connolly*)

12:15 Break

1:45 p.m. Securities Enforcement in the Age of COVID.
During this session, we will discuss SEC/DOJ priorities and recent events (relevant court cases and other developments) that will shape securities enforcement. Specifically, we will address how the government is currently approaching insider trading investigations and prosecutions, how the SEC will respond to Court-imposed restrictions on disgorgement in the wake of *Liu v. SEC*, and how the pandemic has already led the SEC to prioritize cases involving COVID-related disclosures. Finally, we will talk about what the result of the 2020 Presidential election will mean for securities enforcement going forward.
Moderator and Presenters: David L. Axelrod (*Ballard Spahr*), G. Jeffrey Boujoukos (*Morgan Lewis*) and Mary P. Hansen (*Duane Morris*)

2:45 p.m. Internal Investigations: A Behind the Scenes Look at the Challenges Faced by In-House Counsel.
This session will explore the many challenges that in-house counsel face when confronted with the need for conducting an internal investigation. We will explore their perspectives on a variety of issues such as dealing with whistleblowers, gathering critical documents/data, as well as handling investigations remotely when required. The session will provide insight into how in-house counsel manage an investigation, how they select outside counsel, as well as their expectations for how outside counsel will assist them in navigating these complex issues.
Moderator and Presenters: Ashley E. Shapiro (*Buchanan Ingersoll & Rooney*), Yvonne Osirim (*MERCK & Co., Inc.*) and William Conaboy, Jr. (*Tandigm Health*)

3:45 p.m. Break

4:00 p.m. Joint Defense Agreement – How Can Three Words Raise So Many Questions? (Ethics)
The words "Joint Defense Agreement" raise so many questions: What are the benefits of a Joint Defense Agreement (JDA) and is it the same as a Common Interest Agreement? How do I create one that will protect privileged information that is shared between the JDA parties and what are my obligations as a party to a JDA? When should counsel entered into one and must the JDA be in writing? How will the government react to the JDA and how do I preserve the privilege that arises from it? Finally, are JDAs consistent with and supported by the Rules of Professional Conduct? Join us for this one-our ethics session to answer these relevant questions and others (*Ethics*).
Presenters: Patrick A. Casey (*Myers, Brier and Kelly*), and Philip Gelso (*Law Offices of Philip Gelso*)

FRIDAY, NOVEMBER 20, 2020

9:00 a.m. Enforcement During the Pandemic.
This panel will focus on the anticipated or actual enforcement efforts to combat fraud related to the CARES Act and other COVID-19 relief funds. This session will discuss the efforts that the U.S. Attorney's Office and federal regulators are taking to root out fraud related to the CARES Act funding and what the enforcement landscape has been in the pandemic. It will also highlight the ways that enforcement efforts that the Attorney General's Office has put in place to combat fraud as well as price gouging and other practices that have injured small businesses, consumers, and others during the pandemic.
Moderator and Presenters: Sozi Pedro Tulante (*Dechert*), Gregory J. David (*U.S. Attorney's Office in the Eastern District of Pennsylvania*), and Sarah Frasch (*Bureau of Consumer Protection*)

10:30 a.m. Break

10:45 a.m. Hot Topics in Healthcare Fraud and FCA Enforcement.
This session will provide an overview of enforcement activity and trends since 2019, particularly post-COVID-19. We will discuss hot topics and case law developments on how courts continue to interpret the FCA's materiality and scienter requirements post-*Escobar* as well as the public disclosure bar and original source exception. Other subjects of discussion will include the "falsity" element under the FCA; Rule 9(b)'s particularity requirements in affirming dismissal of FCA claims; an update on the Granston memo and recent dismissals; and details on legislation to potentially limit DOJ dismissal power in FCA cases.
Moderator and Presenters: Jessica Natali (*Greenberg Traurig*), Virginia A. Gibson (*Hogan Lovells*) and Kirsten Mayer (*Ropes & Gray*)

12:15 p.m. Break

1:30 p.m. New Developments in Rule 16 – A Sea Change?
A discussion of proposed changes to Rule 16 regarding expert reports and new Rule 16.1 requiring the government and defense to meet and confer regarding discovery.
Moderator and Presenters: Catherine M. Recker (*Welsh & Recker*) and John S. Siffert (*Kankler Siffert & Wohl*)

2:30 p.m. Honest Services Fraud: A Bridge Too Far?
An in-depth discussion of the Bridgegate prosecution, appeal, and Supreme Court reversal, with leading defense attorneys on the case. The panel will also discuss implications for future honest services prosecutions in the wake of *Kelly v. United States*.
Moderator and Presenters: Daniella Gordon (*Armstrong Teasdale*), Michael Critchley, Jr. and Michael Critchley, Sr. (*Critchley, Kinum & Denoia*) and Jennifer Mara (*Baldassare & Mara*)

3:30 p.m. Break

3:45 p.m. The Christiana Resistance. (Ethics)
This presentation focuses on the attempted arrest of fugitives under a federal court warrant in 1851 resulting in a shoot-out in Christiana, Lancaster County, and the death of the slave owner. The ethics component is based on the tension between obeying and enforcing an unjust law. Is resistance to a federal law treason, even if violent? What should judges, marshals and citizens have done when asked to enforce the Fugitive Slave Act?
Presenter: Robert Welsh (*Welsh & Recker*)

Cancellation Policy: All cancellation and refund requests must be made in writing on or before November 15, 2020. A refund of the full conference fee, minus a \$30 administration fee, will be given for cancellations received on or before November 15. No refunds will be granted for requests submitted, dated or postmarked after that date. You must submit your cancellation via email to pacdl@pacdl.org. Refunds will not issue for no-shows.

Substitutions: If you cannot attend, a colleague may take your seat or your course materials will be emailed to you. Transfer of the registration must be made in advance by contacting PACDL to ensure appropriate login credentials are delivered to the substitute. The individual submitting the transfer request is responsible for all financial obligations (any balance due) associated with that substitution.

CLE Credits: You will be eligible to receive up to 12 continuing legal education credits including ten substantive hours of law, practice and procedure credit and 2 ethics credit hours from the Pennsylvania Continuing Legal Education Board of the Supreme Court of Pennsylvania.

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Questions: Please contact us at pacdl@pacdl.org or 717.234.7403.

Webinar: The 2020 White Collar Practice Seminar will be offered virtually using the Zoom platform. Login credentials will be provided to you in advance of the webinar. The login credentials should not be shared with colleagues. They are used by the webinar platform to record login connection and disconnection times and generate documentation of your attendance. If you want to transfer your registration, please contact PACDL.

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