

NEW YORK STATE BAR ASSOCIATION

Committee on Children and the Law
2010 Robert J. Schack Memorial CLE Program

Beyond the Family Court: Appeals and Collateral Review

A comprehensive view of the appellate process in Family Court cases: preservation of the issues for appeal; moving the appeal from Family Court order to appellate decision; when and how to move for interim relief; writing a winning brief; effective oral argument; ethical considerations; and alternative and supplemental remedies.

FRIDAY, JANUARY 29, 2010

9:00 a.m. -- 12:10 p.m.

Hilton New York
1335 Avenue of the Americas
(between 53rd and 54th Streets)
New York City

Nassau Suite, Second Floor

3.5 MCLE Credits

Under New York's MCLE rules, this program has been approved for all attorneys including those newly admitted for a total of **3.5** credit hours 2.0 in the area of professional practice, 1.0 skills and 0.5 ethics credit.

PROGRAM AGENDA

- 8:30-9:00 a.m. **Registration**
- 9:00-9:05 **Welcome and Opening Remarks**
 GEORGE E. REED, JR., ESQ.
 Program Chair
- 9:05-9:30 **Preserving Issues for Appeal: Procedural and Evidentiary**
 Considerations
 JOHN A. CIRANDO, ESQ.
- 9:30-9:55 **Challenging the Family Court's Orders: Obtaining Immediate Relief and**
 Commencing an Appeal
 — Commencing the Appeals Process
 — Obtaining a Stay: Nuts and Bolts and Strategic Considerations
 — Going Back to Family Court
 — CPLR 5704 Applications
 CLAIRE V. MERKINE, ESQ.
- 9:55-10:20 **Perfecting the Appeal: Writing the Brief**
 — Reviewing the Record, Finding Viable Issues
 — Finding the Relevant Law
 — Telling a Compelling Story in the Statement of Facts

- Breaking Each Argument Point into Five Parts
- Editing the Brief and Final Winning Touches
- Some Thoughts on Respondent's and Reply Briefs

CYNTHIA FEATHERS, ESQ.

10:20-10:30 **Coffee Break**

10:30-10:55 **Effective Brief Writing and Oral Argument: Pointers from an Appellate Judge**

HON. EDWARD O. SPAIN

10:55-11:20 **When the Sands Shift: Ethical Considerations for Appellate Lawyers Dealing with Changed Circumstances and Changed Minds**

- Determining the Child's Position on Appeal
- Providing New Information to the Appellate Court
- Strategic Considerations

JUDITH WAKSBERG, ESQ.

11:20-11:45 **Alternatives and Supplements to Direct Appeal**

- Federal Court Remedies: Section 1983, Injunctive and Declaratory Relief, and Damage Actions
- Administrative Remedies: Name-clearing Hearings at the SCR, OCFS Fair Hearings
- Article 78 Proceedings: To Compel a Hearing, and Appeal from OCFS Decisions
- State Supreme Court Habeas Corpus

DAVID J. LANSNER, ESQ.

11:45-12:10 **Panel Discussion: Making Appeals Work for You**

12:10 **Adjournment**

PROGRAM FACULTY

Committee Chair

Prof. Merrill Sobie

Pace University School of Law
White Plains

Program Chair

George E. Reed, Jr., Esq.

White Plains

John A. Cirando, Esq.
D.J. & J.A. Cirando, Esqs.
Syracuse

Claire V. Merkine, Esq.
Juvenile Rights Practice, Appeals Unit
Legal Aid Society
New York City

Cynthia Feathers, Esq.
Law Office of Cynthia Feathers
Saratoga Springs

Hon. Edward O. Spain
Associate Justice
Appellate Division, Third Department
Troy

David J. Lansner, Esq.
Lansner Kubitschek Schaffer & Zuccardy
New York City

Judith Waksberg, Esq.
Director, Appeals Unit
Juvenile Rights Practice
of the Legal Aid Society
New York City

About Robert J. Schack

Robert J. Schack was a founding member of the Committee on Children and the Law and, for many years, Chair of the Legislative Subcommittee. A supervising attorney at the New York State Attorney General's Office, Mr. Schack represented the State in several landmark juvenile justice and child welfare cases. He was a tireless advocate for children's rights and interests, and contributed enormously to the Committee's and the NYSBA's achievements.

IMPORTANT INFORMATION

Discounts and Scholarships: New York State Bar Association members may apply for a discount or scholarship to attend this program, based on financial hardship. This discount applies to the educational portion of the program only. Under that policy, any member of the Association who has a genuine basis of financial hardship can receive a discount or scholarship, depending on the circumstances. To apply for a discount or scholarship, please send your request in writing to the New York State Bar Association, Attn: Catheryn Teeter, One Elk Street, Albany, New York 12207 or via e-mail cteeter@nysba.org.

Special Note for Attorneys Representing Children and Family Court Assigned Counsel Panel Members: Members of Appellate Division Law Guardian Panels are eligible to apply for a tuition waiver for this program. If you qualify for this waiver, you cannot register online. You must obtain a **2010 Waiver Form** from your Program Director or download the waiver form at www.nysba.org/ChildrenandtheLaw, attach it to the completed Annual Meeting Registration Form, and fax or mail back the completed forms to the number/address listed. A limited number of waivers are available on a first come/first serve basis for Family Court or Family Court Appeals assigned counsel panel members who are not currently on a law guardian panel. To inquire about these waivers, please call Catheryn Teeter at (518) 487-5621. Completed waivers must be received by **Monday, January 11, 2010**. **Please note that if you are not a member of the New York State Bar Association, the \$200 nonmember surcharge cannot be waived.**

Accommodations for Persons with Disabilities: NYSBA will make reasonable modifications/accommodations to allow participation in its services, programs, or activities by persons with disabilities. NYSBA will provide auxiliary aids and services upon request. NYSBA will remove architectural barriers and communication barriers that are structural in nature where readily achievable. To request auxiliary aids or services or if you have any questions regarding accessibility, please contact Katherine Suchocki, Staff Liaison to the Committee on Children and the Law at 518-487-5590 or ksuchocki@nysba.org.

For overnight room accommodations, please call the Hilton New York at 1-800-445-8667 and identify yourself as a member of the New York State Bar Association. Room rates are \$239.00 for single/double occupancy. Reservations must be made by **Monday, December 21, 2009**. You also can reserve your overnight room on the web at www.nysba.org/10accomm.

For questions about this program, please contact Katherine Suchocki at 518-487-5590 or ksuchocki@nysba.org. **For registration questions only, please call 518-487-5621. You can fax your registration form to 1-866-680-0946.**

NYSBA 2010 Annual Meeting
January 25, 2010 – January 30, 2010
Hilton New York
New York City

Register Online
www.nysba.org/am2010

January 29, 2010 – Children and the Law Program
Beyond the Family Court: Appeals and Collateral Review

9:00 a.m. – 12:10 p.m.
3.5 MCLE Credits

Registration Fees

NYSBA Members - \$160

Includes General Registration Fee \$85.00 and Meeting Fee \$75.00

Non-Members - \$360

Includes General Registration Fee \$85.00, Meeting Fee \$75.00 & Non-Member Surcharge \$200

For more information about the Committee on Children and the Law, go to
www.nysba.org/ChildrenandtheLaw