



*The American Bar Association Criminal Justice Section Presents*

*The 2007 Fall Conference*

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## **Ethics and Professionalism in Plea Negotiations: *Best Practices and Worst Pitfalls***

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**Washington, DC  
November 2, 2007**

**George Washington University  
Marvin Center  
800 21<sup>st</sup> Street, NW**

Accreditation has been requested  
from mandatory CLE states.

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**A G E N D A**

8:45 am – 9:00 am:       **Welcome and Introductions**  
Stephen Saltzburg, Chair, American Bar Association Criminal Justice Section

9:00 am – 10:30 am:       ***Best and Worst Negotiating Practices***

This panel will examine the actual conduct of plea discussions between the prosecutor and defense attorney and the appropriate judicial role (if any) in the process. Panelists will identify the most effective and ineffective negotiating practices, including the virtues and liabilities of candor and withholdings. They will suggest how the defense lawyer can provide sufficient information during negotiations while minimizing the risk of hurting the client if a deal falls through. Prosecutors will learn how far they can go in bluffing or merely puffing without crossing an ethical line or undermining their credibility and effectiveness. The panel will update participants concerning recent Supreme Court decisions on the federal sentencing guidelines and how they affect the plea bargaining process.

*Peter Joy, Session Coordinator, Washington University, St. Louis, MO*

*Angela Davis, Session Moderator, American University, Washington, DC*

Panel: Glen Ivey, State's Attorney, Prince Georges County, MD (invited); Stephen Best, LeBoeuf Lamb Greene & MacCrae, LLP, Washington, DC; Linda Singer, Attorney General for D.C., Washington, DC; Paul Butler, George Washington University, Washington, DC; Jean Faria, Asst. Public Defender, Baton Rouge, LA; Patricia Jessamy, State's Attorney for Baltimore City, Baltimore, MD; Judge Martin Marcus, Larchmont, NY; Norman Reimer, Executive Director, NACDL, Washington, DC

10:30 am – 10:45 am:    Break

10:45 am – 12:00 pm:    ***How Prosecutors and Defense Lawyers Can Make Good Decisions About Plea Negotiations***

This panel will focus on decision making in the plea negotiation process. From the defense side, the panel will identify best ways for defense lawyers to enable clients to make an informed decision whether to enter into plea discussions or accept a plea offer. Also the ethical issue of representing a client's best long-term interest vs. what a client wants will be discussed. Defense lawyers will consider how much investigation is needed to give good advice, how best to present advice, and what advice must be given about collateral consequences. Special attention will be given to dealing with impaired clients, with those who claim to be innocent, and with those who might be able to cooperate with the prosecution. The panel will discuss the availability of diversion and deferred adjudication as options at the plea bargaining stage, looking toward dismissal of charges and expungement in appropriate cases. From the prosecution side, the panel will discuss how in the initial charging decision the prosecutor should be influenced by the possibility of a plea bargain and the best approaches to take in deciding what plea offer to make. The panel will discuss the policies and structures within a prosecutor's office that are necessary to promote consistent decision making while adequately accounting for relevant individual considerations.

*Stephen Saltzburg, Session Moderator, George Washington University, Washington, DC*

Panel: Vince Aprile, Lynch Cox Gilman & Mahan, PSC, Louisville, KY; Daniel Ballemare, Q.C., Montreal, Canada; Judah Best, LeBoeuf Lamb Greene & MacCrae, LLP, Washington, DC; Stephen Bronis, Zuckerman Spaeder, Miami, FL; A.J. Kramer, Federal Public Defender, Washington, DC; Denise Cheung, Asst. U.S. Attorney, Washington, DC; Mathias Heck, Montgomery County Prosecuting Attorney, Dayton, OH; Cheryl Jacobs, Asst. State's Attorney, Baltimore, MD; Robert Johnson, County Attorney, Anoka, MN; Margaret Colgate Love, Law Office of Margaret Love, Washington, DC; Col. Dwight Sullivan, Washington, DC

Noon – 1:30 pm:        Box Lunch

***Keynote Address***

**Judah Best**, Counsel at LeBoeuf, Lamb, Greene & MacRae LLP, Washington, DC, Former Assistant U.S. Attorney and a trial attorney for the Supreme Court and Appellate Litigation Section, Solicitor's Office, at the U.S. Department of Labor




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Plea negotiating is the oft-used (over 90% of criminal cases result in a plea) but seldom-examined process of dispensing with criminal cases. This conference will bring together experts and practitioners to examine ethical and professionalism issues raised by the process and to identify best practices for defense lawyers, prosecutors, and judges involved in plea negotiations.

Conference Planners: Bruce Green, Ellen Yaroshefsky, Stephen Saltzburg

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