

## *AGENDA*

**Program Title:** “*Appellate Practice: Comparing State and Federal Practice*”

**CLE Credits:** 2 CLE credits (1 in “professional practice”; 1 in “ethics”).

**Date/Time:** May 23, 2018; 4:00 p.m. – 6:00 p.m.

**Location:** WDNY, Jackson Courthouse in Buffalo

### **Timed Program Agenda:**

- a. **Introductions:** Program overview by *Jeffrey A. Wadsworth, Harter Secrest & Emery LLP (5 mins.)*
  
- b. **Practical Differences in State and Federal Appellate Practice:** Moderated panel discussion of differences in appellate practice between the two courts. **Panelists:** *Hon. Richard C. Wesley, Circuit Judge, U.S. Court of Appeals for the Second Circuit; Hon. Eugene M. Fahey, Associate Judge, New York Court of Appeals; John C. Horn, Harter Secrest & Emery LLP; Tiffany H. Lee, Chief of Appellate Division, U.S. Attorneys’ Office for the Western District of New York; Daniel Gross, Assistant District Attorney -- Appellate Bureau, Monroe County; (50 mins.)*. Issues covered:
  - i. Preservation of Issues
  - ii. Finality/Interlocutory appeals
  - iii. Argument differences: time limits/rebuttal
  - iv. Timing of appeals: perfecting; filing; briefing scheduling
  - v. The record preparation and brief requirements
  - vi. Injunctive relief/stays pending appeal
  
- c. **Ethics of Appellate Practice:** Moderated panel discussion of ethical issues in appellate practice. **Panelists:** *Hon. Richard C. Wesley, Circuit Judge, U.S. Court of Appeals for the Second Circuit; Hon. Eugene M. Fahey, Associate Judge, New York Court of Appeals; Hon. John M. Curran, Justice, New York Appellate Division, Fourth Department; Kathleen M. Sweet, Gibson, McAskill & Crosby, LLP (50 mins.)*. Issues covered:
  - i. Filing frivolous appeals/sanctions;
  - ii. Misstatements vs. zealous advocacy;
  - iii. Duty to disclose authority;
  - iv. “Cheating” on word limits;
  - v. Incivility toward counsel and the court;
  - vi. Duty of competence;
  - vii. Ghost writing.