

**NEW YORK STATE - FEDERAL JUDICIAL COUNCIL ADVISORY GROUP
SECOND CIRCUIT CONTINUING LEGAL EDUCATION PROGRAM**

Attorney Privilege and Work Product

JUNE 4, 2015

TIMED AGENDA

ETHICS PANEL (moderated by Prof. Patrick Connors, Albany Law School)

80 Minutes (1.5 Credit Hours): 2:00 – 3:20 p.m.

1. What constitutes confidential information protected by Rule 1.6? (10 minutes)
2. What are the duties owed to a prospective client? (10 minutes)
3. What are the duties of the lawyer who receives inadvertent disclosure from an adverse party? (10 minutes)
4. What steps can in house counsel take to avoid jeopardizing the attorney-client privilege? (10 minutes)
5. In-house law firm ethics counsel – are communications between a lawyer and in house ethics counsel privileged? (5 minutes)
6. Parameters of Rule 4.2 – The No Contact Rule (10 minutes)
7. Parameters of Rule 4.3 – Communications with unrepresented persons (10 minutes)
8. Joint Defense Agreements (10 minutes)

PRACTICAL PANEL (moderated by Alan Goldberg, Whiteman Osterman & Hanna LLP)

80 Minutes (1.5 Credit Hours): 3:30 – 4:50 p.m.

1. Examples of the Challenge of Making Privilege Calls – Email Attachments (10 minutes)
2. Work Product Protection Issues (10 minutes)
3. Waiver of Privilege or Protection (10 minutes)
4. The Scope of a Waiver of Privilege – when will privilege be waived for documents or information beyond what is actually disclosed (subject matter waiver)? (10 minutes)
5. Inadvertent Production of Privileged Material – when will it result in a waiver? (15 minutes)
6. Privilege Logs – How much information is required? Document-by-Documents or Categorized? (15 minutes)
7. Practical Aspects of the Judicial Resolution of Privilege Disputes (10 minutes)