

THE DEFENSE *NEVER* RESTS

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Eastern District of Louisiana

F.P.D. Office Vacancies

Attorney (Temporary Position)

Qualifications: (1) significant experience in the area of criminal defense in the federal court system; (2) computer literacy; (3) proven research and writing skills; (4) the ability to assume a caseload immediately without significant supervision. Persons applying must be admitted to the practice of law and a member in good standing of the Louisiana State Bar Association. The outside practice of law is prohibited. This position does not require fluency in Spanish but that language skill is desirable.

Legal Secretary

Qualifications: (1) 3-5 years legal secretarial experience; (2) excellent written and oral communications skills; (3) ability to meet deadlines and multi-task; (4) thorough knowledge of WordPerfect 12 with minimum typing of 60 words per minute. The salary range is dependent upon experience.

Clerical Assistant/Receptionist

Qualifications: (1) good organizational and communication skills; (2) attention to detail; (3) ability to meet deadlines and multi-task. The job duties include receiving and directing telephone calls and visitors, delivering court documents for filing, assisting with word processing and photocopying, receiving incoming mail and deliveries, entering data of electronic case filing documents in Lotus Notes. Salary is commensurate with experience.

All the above positions receive full federal benefits, holidays, and paid parking. A background check is required as a condition of employment. If interested, send letter of interest, resume with three professional references, salary history and minimum salary requirements to: 500 Poydras Street, Suite 318, New Orleans, LA 70130. If applying for the attorney position please also include a writing sample. The Federal Public Defender's Office is an Equal Opportunity Employer. Only those applicants selected for interviews will be contacted. No phone calls!

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CJA Panel Attorneys Drop Briefcases, Pick Up Hammers to Help New Orleans

“Loafers!?! I’ve never seen anyone show up on a worksite wearing loafers!” exclaimed Catherine, the crew leader for a Habitat for Humanity project in New Orleans. The object of her incredulity was Hugh Fleischer, the CJA panel attorney representative for the District of Alaska. Well, Fleischer is, after all, a lawyer, not a carpenter, but he was ready to work – loafers and all.

Fleischer was in New Orleans for the National Conference of CJA Panel Attorney District Representatives and, along with several of his colleagues, stayed for an extra day at his own expense to volunteer in the city that had been so traumatized by Hurricanes Katrina and Rita. The annual conference, organized by the AO’s Office of Defender Services (ODS), brings together CJA panel attorney representatives from each of the 94 districts, a federal defender from each circuit, and one or more members of the Committee on Defender Services to meet with ODS staff.

The instigator for the volunteer project was Jim Harrington, the panel representative from the Western District of New York, an area known for weather assaults in the form of snow storms. Through Herb Larson, the panel rep from the Eastern District of Louisiana, Harrington was connected with Rebuilding Hope in New Orleans, aka RHINO, which partners with Habitat for Humanity.

Fleischer could not claim the distinction of having traveled the farthest distance – he was outdone by Jim Sirok, panel rep for the District of the Northern Mariana Islands, and Gayle Martin, also from the Islands. Others in the group were Federal Public Defender Michael Nachmanoff (Eastern District of Virginia) and panel representatives Harrington, Peter Krupp (District of Massachusetts) and his wife Vicki, Doug Adams (District of Kansas), and David McCann (District of South Carolina). Together with Judith Mroczka, Chief of the Legal and Policy Branch, ODS, and her husband Ed, the crew numbered 11. They were paired with a church group from Michigan, who delivered a lunch bag to them, labeled “Sandwiches for the Lawyers.”

McCann and Judy Mroczka joined a stair-building team, while Ed Mroczka (who had spent the previous week volunteering with RHINO and Habitat) helped to build a platform for the air conditioning unit. Peter Krupp, Nachmanoff, and Harrington joined Martin on the roof, Vicki Krupp helped with the siding part of a window framing project Sirok installed a side door and manned the table saw, and Fleischer and Adams spent long hours digging post holes.

The home was being built for (or in Habitat terms, in partnership with) Jeanette Trask, who lost her home in the Ninth Ward. Her down payment is 350 hours of sweat equity, either on her own home or another. She will then pay for the home over time with an interest-free mortgage.

Hours after the crew of lawyers left the site, tornados ravaged the city. One of them missed Jeanette Trask’s house by a block.

Harrington, upon learning of the tornado, commented, “I’d like to think that our construction crew built a house, especially the roof, with Peter’s exact cutting and Michael’s and my precision shingle positioning and nailing, that could withstand a tornado. Therefore, I will stretch the truth a bit (first time in my life) to say that the tornado struck right at our site, but could not damage the structure.” Adams added, “But if it weren’t for the precision hole-digging by David, Hugh, and Doug just east of the residence (which operated in such a manner as to divert and funnel – literally – the heaviest winds away from the main structure) all could have been lost.”

Habitat’s Catherine had told the group earlier that although some previously built Habitat homes suffered roof and water damage from Katrina and Rita, none was destroyed. “Habitat houses tend to have twice as many nails as they need,” she said.



Continued on next page

The CJA attorneys and the federal defenders returned to their offices to resume their normal lives, representing those who lack the financial wherewithal to retain an attorney to represent them in a federal criminal matter. They returned richer for the experience of helping someone who needed a home, and afterwards chipped in to send a \$300 gift card as a housewarming gift to Ms. Trask.

Orleans Public Defender Program Conflict Panel

Judge Barbier, the current president of the New Orleans Bar Association, asked that we canvass our panel to determine if any of our members would be interested in taking Orleans Parish criminal cases which the Orleans Public Defenders Office cannot handle because of a conflict. The hourly rate is \$60. If you are interested in participating, please advise the New Orleans Bar Association. The contact person is Helena Henderson. Her email address is hhenderson@neworleansbar.org.

A CALL TO ARMS

Following the LACDL'S board meeting on February 23, 2007, the Board met for dinner at the Bon Ton restaurant in New Orleans. There, with fresh new ideas from law students and lively discussion, the Board mapped out its objectives and events. The gang regrouped the following morning for several hours to plan for 2007. If you notice that there are vacant chairs in the photos, you are correct. Katrina took a toll. In fact, the hope is that you will get more involved. Every effort is being made to infuse the board with new blood. There is room for leadership and more work to do than people to do it. If our organization is to remain viable, your help is needed.

Generally, LADCL organizes five major events throughout the year. From the revenues derived from these seminars, the organization strives to achieve its purpose. If you have an area of expertise and are interested in presenting at one of the seminars, contact David Price, the co-chair of the CLE Committee.

There is also a real need for attorneys with specialized experience to submit articles for publication in the newsletter, *The Advocate*.

LACDL is your organization and with your assistance it will continue to thrive. In the last couple of years, there have been concerted efforts to improve the quality of representation of indigent clients. Fair payment to public defenders, a result of these efforts, will benefit everyone. With such successes to point to, LACDL hopes that you will realize the value of the organization and realize that LACDL is your organization and contribute by publishing, presenting, briefing or joining the Board.



CASE DEVELOPMENTS

Confrontation Clause

Whorton v. Bockting, No. 05-595 (S. Ct. Feb. 28, 2007): In Crawford v. Washington, the Supreme Court held that testimonial statements of witnesses absent from trial are admissible only where the declarant is unavailable and where the defendant had a prior opportunity to cross-examine her. That rule applies to cases pending on direct review when Crawford was decided. But it does **not** apply retroactively to cases that became final before Crawford.

United States v. Rodriguez-Martinez, No. 05-11384 (5th Cir. Jan. 12, 2007): The Fifth Circuit vacated a conviction due to a Confrontation Clause violation. A confidential informant set up a drug buy at a Denny's parking lot. When the police arrived at the parking lot with the informant, the informant allegedly identified the defendant "as the guy I've been talking to." The informant did not testify at trial but a police officer testified to the informant's statement. On appeal, the government conceded a Confrontation Clause violation under Crawford v. Washington, but argued the error was harmless. The Fifth Circuit disagreed. The informant's out-of-court statement was the only direct evidence identifying the defendant and the defendant provided a plausible explanation for the circumstantial evidence against him.

Fourth Amendment

United States v. Gomez-Moreno, No. 05-20921 (5th Cir. Feb. 12, 2007): The Fifth Circuit reversed the denial of a motion to suppress because the law enforcement officers created the exigent circumstances on which they relied to justify a warrantless entry of a residence. ICE officials received an anonymous telephone tip that 20 illegal aliens would be found at the residence. They arrived on the scene with local police and decided to conduct a 'knock and talk.' No one answered, but a man came out of the house and then ran back inside when he saw the officers. The officers followed the man into the house and arrested 13 people. On appeal, the Fifth Circuit held the officers acted unreasonably by approaching with a show of force and by demanding entry when no one responded to their knock. Instead, they should have retreated and conducted further surveillance or gotten a warrant. The district court found that the officers needed to enter because the element of surprise was lost once the man came out of the house and saw them. But the Fifth Circuit said that the officers already had lost any element of surprise by knocking on the door, announcing their presence and demanding entry.

Illegal Re-Entry

United States v. Gunera, No. 05-20544 (5th Cir. Feb. 13, 2007): The Fifth Circuit reversed a conviction for illegal re-entry and dismissed the indictment because the five-year limitations period had expired. When Gunera returned to the U.S. illegally in 1999, he applied to the INS for Temporary Protected Status. Within a month, the INS discovered his prior convictions and deportation. Nevertheless, Gunera was not arrested and charged with illegal re-entry until he was visited by immigration agents more than five years later to follow-up on his application.

Post-Conviction Relief

Lawrence v. Florida, No. 05-8820 (S. Ct. Feb. 20, 2007): The one-year period for filing post-conviction petitions under 28 U.S.C. § 2254 is **not** tolled by a petition for certiorari in the U.S. Supreme Court to review the denial of state post-conviction relief. This result follows from the language of § 2244(d)(2), which allows tolling only for "[t]he time during which a properly filed application for State post-conviction or other collateral review . . . is pending." This rule must be distinguished from the tolling period for direct review of state convictions under § 2244(d)(1), which **does** include the time during which a petition for certiorari is pending in the U.S. Supreme Court.

Restitution

United States v. Jones, No. 05-30942 (5th Cir. Jan. 16, 2007): The Fifth Circuit vacated a restitution award in this Medicare fraud case for lack of proof of the loss. The fraud consisted of the defendants' failure to reveal the common ownership and control of their health management company and the hospital it was hired to manage. Nevertheless, the defendants denied a loss to Medicare because they said the management fees were reasonable. There was no audit of the fees and the government presented no evidence that the fees were unreasonable or exceeded costs; extrapolation from the salary of the chief operating officer "of a typical medical facility" did not suffice. The PSR apparently relied on the government's analysis, but "[t]he unsworn assertions of the government's attorney do not provide a sufficiently reliable basis for a defendant's sentence," nor do "[b]ald conclusory statements . . . acquire the patina of reliability by mere inclusion in the PSR."

Sentencing

United States v. Mejia-Huerta, No. 05-11391 (5th Cir. Feb. 28, 2007): The district court is not required to give notice under Fed. R. Crim. P. 32(h) of its intent to vary from the Sentencing Guidelines. Rule 32(h) requires notice of Guideline-authorized departures only. The circuits are split on this issue so be sure to preserve the error.

United States v. Rajwani, No. 05-10648 (5th Cir. Jan. 16, 2007): The Fifth Circuit reversed an upward departure from the Sentencing Guideline range as excessive. The defendant was convicted of wire fraud and received a vulnerable-victim

Guideline enhancement. In addition, the district court departed upwardly to a sentence 3 times the middle of the Guideline range on the ground that the elderly victims were poor and suffered emotional distress. The Fifth Circuit held that the extent of the departure was excessive. A certain amount of emotional distress is inherent in being defrauded, the court said, and there was no evidence that the distress was so severe as to require medical treatment.

United States v. Davis, No. 05-10754 (5th Cir. Jan. 31, 2007): Davis agreed to sell a confidential informant 85 grams of crack cocaine but he brought 81 grams of a non-controlled off-white substance to the sale. The Fifth Circuit held that the 81 grams should not have been included in the Guideline drug quantity calculation because Davis lacked the intent to produce the real thing; as the PSR stated, Davis intended to “rip off” the informant by selling him a non-controlled substance in place of crack. Before 1995, application note 12 of U.S.S.G. § 2D1.1 required the defendant to prove both lack of intent **and** lack of capability. But in 1995, the Sentencing Commission replaced the “**and**” with an “**or.**” Therefore, lack of intent sufficed to take the 81 grams out of the drug quantity calculation.

Money Laundering

United States v. Cuellar, 05-10065 (5th Cir. Feb. 2, 2007) (*en banc*): The *en banc* court reversed a panel decision holding that concealing drug proceeds in the floorboard of a car to transport it out of the country does not prove transportation under a plan that the defendant knows is designed “to conceal or disguise the nature, the location, the source, the ownership, or the control” of the money, in violation of 18 U.S.C. § 1956(a)(2), the money laundering statute. According to the majority, concealing the funds during the U.S. leg of the trip was part of a plan to get the money out of the country. Because the cash was wrapped in such a way as to disguise the odor of marijuana which it emitted, the transportation was designed to conceal its “nature.” Because the money was entrusted to a mule who did not know the owner, the transportation concealed the source, ownership and control of the funds. A strong dissent by Judge Smith called the majority’s result “absurd and embarrassing,” and distinguished between “concealing something to transport it, and transporting something to conceal it.”

JAIL VISITATION HOURS AND PROCEDURES

ST. TAMMANY PARISH JAIL

HOURS OF OPERATION FOR PROFESSIONAL/ATTORNEY VISITS:

- 8 am - 11 am M - F last visit will be scheduled for 10:30 am
- 1 pm - 4 pm M - F last visit will be scheduled for 3:30 pm
- 6 pm - 8 pm M - F last visit will be scheduled for 7:30 pm

St. Tammany Parish Jail is no longer receiving requests via telephone conversations. Requests to see an inmate can be done by the following:

- 1) Walk-in Visits:
 - Come in person to Visitation during Operational Hours
 - Present your ID and Bar Card to the Visitation Officer
- 2) Fax Request for scheduling the visit
 - Fax must include:
 - Must be on your Office’s letterhead
 - Bar Roll Number of the Supervising Attorney
 - Inmate’s name
 - Date and time that you will be coming
 - Your name and contact information

If the inmate is known to be an inmate worker, submit the fax request one day prior, this way the inmate is scheduled not to report to work off location.

Fax request to 985-898-2716
 Attention: Dy Christina Hilby
 Fax must be sent during office hours of 8 am - 4 pm, Monday through Friday. Fax must be received 1 hour prior to visit request. All fax request visits will be denied if the fax is not received 1 hour prior to scheduled visit time.

TEMPLEMAN PHASE FIVE

HOURS OF OPERATION FOR PROFESSIONAL/ATTORNEY VISITS:

- Monday - Friday
- 7:30 am - 11:00 am
- 12:30 pm - 6:00 pm
- 7:30 pm - 10:00 pm

Jail on lock down for feed up:
 11:00 am - 12:30 pm

- Saturday and Sunday
- 1:00 pm - 6:00 pm
- 7:30 - 10:00 pm

Jail on lock down for feed up:
 7:00 am - 1:00 pm

HOT OFF THE PRESSES:

The Supreme Court has asked the parties to a pending cert. petition to brief the question whether state supreme courts may give U.S. Supreme Court decisions broader retroactive effect than allowed in federal courts by Teague v. Lane, 489 U.S. 288 (1989). Responses are due April 19, 2007. The case is Danforth v. Minnesota, No. 06-8273. The cert. petition was filed December 6, 2006.

New CJA Panel Members

Criminal Justice Act Representative Herb Larson and Federal Public Defender Virginia Schlueter recently reviewed the Criminal Justice Act Panel applications filed in the Clerk's Office. Although the current CJA Plan allows for one hundred (100) members, post-Katrina there were only seventy-nine (79) members. In conjunction with efforts to continually improve the quality of representation under the Criminal Justice Act, Title 18, United States Code, Section 3006A, the applicants participated in an in-depth interview. Recommendations were made to the Criminal Justice Act Judicial Committee comprised of Carl Barbier, Lance Africk, Jay Zainey, and Louis Moore. The applicants who received unanimous approval for membership are as follows:

1. **Aris Cox** - Mr. Cox has practiced law in both state and federal courts since 2002. He is currently associated with Martin E. Regan & Associates. In that capacity, he has negotiated favorable resolutions for federal defendants.
2. **Kerry Cuccia** - Mr. Cuccia has been engaged in the active practice of law since 1976. He was a member of the Orleans Indigent Defender Program from 1997-2001 and currently serves as the Director of the Capital Conflict Panel in Orleans Parish. He has extensive trial experience and has been lead counsel in over 20 capital cases, all of which resulted in a verdict of less than death.
3. **George Frazier** - Mr. Frazier has extensive appellate experience. He was a partner with Lemle & Kelleher for over twenty years. He has recently taught Legal Writing and Research at both Tulane and Loyola Law Schools. In addition, he worked for the Southeast Louisiana Capital Project drafting writs.
4. **William Gibbens** - Mr. Gibbens served as an Assistant United States Attorney in this district from 2002- 2006 and is currently associated with Schonekas, Winsberg, Evans & McGoey. He previously clerked for the Honorable Edith Brown Clement in both the Eastern District of Louisiana and the Fifth Circuit Court of Appeals. He has extensive trial experience in federal court and has handled numerous federal appeals.
5. **Michael Hill** - Mr. Hill specializes in appellate work. He has significant experience in research and drafting of motions and briefs. He has worked with panel members Mike Fawer and Randy Smith on several federal cases.
6. **Louis Irvin** - Mr. Irvin is a solo practitioner whose clientele is approximately 40% criminal and 60% civil. His practice is mainly located in Orleans and St. Tammany Parishes. He has an L.L.M. in Environmental Law from Tulane Law School.
7. **Claude Kelly** - Mr. Kelly was an Assistant Federal Public Defender for 8 ½ years in this office. He has tried over 100 felony jury trials in his career including one capital case through verdict. He is proficient in Spanish.
8. **Joseph Marino, Jr.** - Mr. Marino has been practicing criminal law exclusively since April, 2001, having attended law school after early retirement from the business community. He has both federal and state experience and has tried approximately 20 jury trials.
9. **Linda Russo** - Ms. Russo is a solo practitioner who was admitted to the practice of law in 1988. She has extensive state trial experience and has tried over 100 felony cases.
10. **Autumn Town** - Ms. Town is an associate of panel member Laurie White. She has been practicing criminal law exclusively for approximately 4 years. She is specifically interested in appellate work.
11. **Robert White** - Mr. White was the Chief of Appeals in the Orleans Parish District Attorney's Office. He holds an L.L.M. in Admiralty and a Masters in financial management. He specializes in appeals and white collar trial work.
12. **Jason Williams** - Mr. Williams has tried over 300 felony cases in state court and 10 in federal court. Most importantly, he is "learned in the law" and thus, capital qualified. He served as Judge Pro Temp in Orleans Parish Criminal District Court. Further, he is an instructor in the Tulane Trial Advocacy Program and an appellate team coach.

We believe that these additions to the panel will continue to ensure that indigent clients will be represented by well qualified counsel. An orientation for the new panel members is set for April 19, 2007. Thereafter you can anticipate seeing more of the new panel members. Please make every effort to introduce yourself and assist them in learning the secret handshake.

Joan Baez asks, "Where have all the heroes gone?"

In Memoriam - Neal Walker



Before his recent death, Neal Walker was the Executive Director of the Louisiana Capital Assistance Center, a New Orleans based non-profit law office specializing in defending impoverished prisoners facing the death penalty in Louisiana and the Gulf region. With over twenty-five years of criminal defense experience, including two years as an Assistant Federal Public Defender for the Eastern District of Kentucky, he defended dozens of capital indictments at all stages of the legal process from trial through appeal and in habeas corpus actions. In 1992 he argued *Sawyer v. Whitley* in the United States Supreme Court. His victories were legendary: obtaining acquittals, dismissals and relief from the death penalty for scores of capital defendants. In fact not one death sentence imposed on a trial level client ever survived appellate review.

In recognition of his accomplishments, Neal received the Defender Services Award from the National Legal Aid and Defender Association in 1990 and the Sam Dalton Capital Defense Advocacy Award from LACDL in 1998. Neal was a member of the Eastern District of Louisiana's Criminal Justice Act Panel and received last year's CJA Panel award.

Neal lectured in twenty states and in Europe on topics relating to criminal justice and the death penalty. Earlier this year he appeared on NBC Nightly News and the Anderson Cooper 360 show in connection with his litigation on behalf of hundreds of prisoners wrongfully detained following Hurricane Katrina. In March, 2006 *Judicature*, the journal of the American Judicature Society, published his most recent critique of the death penalty, *How the Malfunctioning Death Penalty Challenges the Criminal Justice System*.

Recently, when all of the Federal Public Defenders met in New Orleans for an annual conference, a search was made for an inspirational speaker. After a national search, the person most worthy of that task was found in our own backyard. Neal communicated with the audience on a level that weary defenders understood and recognized. People from outside our area came to understand our unique criminal justice system and the extraordinary challenges it presents. He held them spellbound as he recounted the difficulties in attempting to assist the thousands of unrepresented Orleans Parish prisoners detained following Katrina. He previously detailed the course of litigation in an article in our newsletter entitled "Bayou Guantanamo."

Neal mustered capital lawyers to work together to improve the quality of our local representation. He often moderated our capital breakfasts and presented at our annual continuing legal education programs. This photo was taken at our last CLE. As might be expected, his commitment to continuing legal education resulted in rave reviews and requests for additional presentations by Neal. In fact, on the day before he died, Neal presented at the National Forensics Seminar held in New Orleans.

The lawyers in our office felt especially comfortable conferring with Neal, who would always find time to be the sounding board for unusual and often difficult defenses. The anxiety we felt when federal prosecutors dismissed the capital prosecution of Eric Matthews was assuaged when Neal signed on to represent Matthews in Tangipahoa Parish. The consummate professional, Neal successfully negotiated a life sentence and located competent counsel for Mr. Matthews in other states. Those attorneys, armed with the mental illness evidence developed by Neal, were also able to negotiate life sentences.

The legacy he leaves us all is a ready cache of top notch investigators, mitigation specialists, and lawyers hand selected and taught by him to uncover a client's most painful memory or embarrassing secret in order to develop proper mitigation. Only last week, two of his new LCAC associates moved for admission in the Eastern District to continue his tradition of vigorous capital defense work.

Neal epitomized the type of lawyer constitutionally mandated to protect the rights of indigent clients who might otherwise be unable to obtain effective assistance of counsel.

The Big (Not So) Easy

THURSDAY, MAY 10, 2007

Early Registration and Reception 6-9 p.m.

FRIDAY, MAY 11, 2007

Registration Opens 7:30 a.m.

Welcoming Remarks 8:30-8:45 a.m.

Strategic Approaches to Dealing with Collateral Consequences 8:45-10:15 a.m.

A felony conviction can often mean much more than incarceration, including loss of a medical, law or broker's license; individual suspension and debarment from government contracts, such as physician reimbursement under Medicare or Medicaid; or, in a wide range of cases involving those who are not U.S. citizens, deportation. Panelists will explore the nuts and bolts of how conviction can impact issues of licensing, debarment, and deportation; strategies in plea negotiation to limit these collateral consequences; and how to approach relevant civil agencies or licensing boards to minimize the collateral damage of resolving a criminal case.

- DAVID G. BARGER, Williams Mullen, McLean, Va.
- LINDA OSBERG-BRAUN, Miami, Fla.
- CHRISTOPHER W. SCHMEISSER, Securities and Investor Fraud Unit, U.S. Attorney's Office, District of Connecticut

Break 10:15-10:30 a.m.

Expert Witnesses in Federal Criminal Trials: Recent Trends and Common Practices 10:30 a.m.-Noon

From DNA testing to computer forensics and testimony relating to complicated financial transactions, both prosecutors and defense lawyers are increasingly expanding their use of expert witnesses to assist juries in understanding complex criminal cases. This panel will explore the application of *Daubert* to federal criminal prosecutions and will discuss recent cases and trends. In addition, the panel will provide practical advice for practitioners in dealing with admissibility, the examination of the witness, and the "CSI effect" on jury expectations.

- HON. KURT ENGELHARDT, U.S. District Court, Eastern District of Louisiana, New Orleans, La.

- GEORGE CHANEY, Office of the Federal Public Defender for the Eastern District of Louisiana, New Orleans, La.
- PAMELA R. METZGER, Associate Professor of Law, Tulane University Law School, New Orleans, La.
- MICHAEL R. SKLAIRE, Williams Mullen, Washington, D.C.

Luncheon and Keynote Address Noon-1:30 p.m.

HON. RICARDO HINOJOSA, Chair of the U.S. Sentencing Commission, will talk about the current landscape of federal sentencing, including the continued impact of *Booker* and *Crawford*.

The Federal False Claims Act: An Overview and Analysis of Parallel Criminal and Civil Proceedings 1:30-3 p.m.

This panel will include an overview of the federal False Claims Act, including the process for initiating a qui tam action, what factors Department of Justice attorneys apply in determining whether to intervene in an action, what steps corporate counsel should take when notified of a potential criminal and/or civil FCA action, the different standards of scienter, how to handle parallel criminal and civil proceedings under the act, common defenses and steps companies can take to reduce exposure to FCA actions.

- ROBERT SALCIDO, Akin Gump Strauss Hauer & Feld LLP, Washington, D.C. (former trial attorney in the Department of Justice Civil Fraud Unit)
- KEVIN CONNELLY, Seyfarth Shaw LLC, Washington, D.C.
- KEVIN MCGRATH, Seyfarth Shaw LLC, New York and Boston (former Assistant U.S. Attorney)

Break 3-3:15 p.m.

Supreme Court Update 3:15-4:45 p.m.

In the ever changing world of criminal defense, it is necessary to consider the practical implications of the most recent decisions from the country's highest Court. Timothy Crooks will provide attendees with a comprehensive review of recent Supreme Court decisions and how those decisions will impact the way both private and public practitioners approach the representation of their clients.

- TIMOTHY CROOKS, Office of the Federal Public Defender for the Southern District of Texas, Chief of Appeals, Houston, Texas

<p>Location The Criminal Law Conference and Thursday night reception will be held at the Sheraton New Orleans Hotel, 500 Canal Street, New Orleans, La.</p> <p>Enrollment and Fees The deadline for registration by mail, fax, or online is Friday, May 4, 2007. Attendees may also register onsite, provided space is available. Price includes registration fees, lunch, and one set of</p>	<p>course materials. After the conference, additional course materials can be purchased at a cost of \$100 for FBA members and \$130 for nonmembers.</p> <p>Accommodations A limited number of rooms are being held at the Sheraton New Orleans for conference attendees. Room rate is \$133 plus 13 percent tax. Mention the Federal Bar Association in order to get the group rate. The Sheraton New Orleans is locat-</p>	<p>ed at 500 Canal Street, New Orleans, La. For reservations call (504) 525-2500, (800) 325-3535, or (504) 595-5552 (fax). Make reservations by April 10, 2007.</p> <p>CLE Credit This program qualifies for approximately 6 hours of CLE credit.</p> <p>The THURSDAY EVENING RECEPTION IS SPONSORED by the New Orleans Chapter of the Federal Bar Association.</p>
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LACDL'S LAW & ALL THAT JAZZ

THURSDAY, APRIL 26, 2007

- 8:00 - 9:00 a.m. **Registration/ Continental Breakfast**
- 9:00 - 9:30 a.m. **Welcome**
- 9:30 - 10:30 a.m. **"A Flooded Evidence Room: Defense Lawyers Dream...or Not?"**
Katherine Mattes, New Orleans, LA
- 10:30 - 11:30 a.m. **What makes "Death Different?"**
Richard Jaffee, Birmingham, AL
- 11:30 - 12:30 p.m. **Lunch (on your own)**
- 12:30 - 1:30 p.m. **"Making the Courtroom Your Living Room": Trial Tips From 31 Years of the Good and the Bad**
Rusty Hardin, Houston, TX
- 1:30 - 2:30 p.m. **The Trial Terrorist Bill: What Does it Really Say?**
Pamela Robillard Mackey, Denver, CO
- 2:30 - 2:45 p.m. **Break**
- 2:45 - 3:45 p.m. **Crawford, Phase II: The Rise of Davis/Hammon**
Marvin Schechter, New York, NY
- 3:45 - 4:45 p.m. **Jury Selection in Child Sex Cases**
Craig Jett, Dallas, TX
- 6:30 - 8:30 p.m. **Welcome Cocktail Reception**
Location TBD

IMPORTANT NOTE: The schedule listed in this brochure is accurate at the time of printing. We make every effort to present the topics as listed at the assigned times. Due to unforeseen circumstances, times, speakers and/or presentations are subject to change.

FRIDAY, APRIL 27, 2007

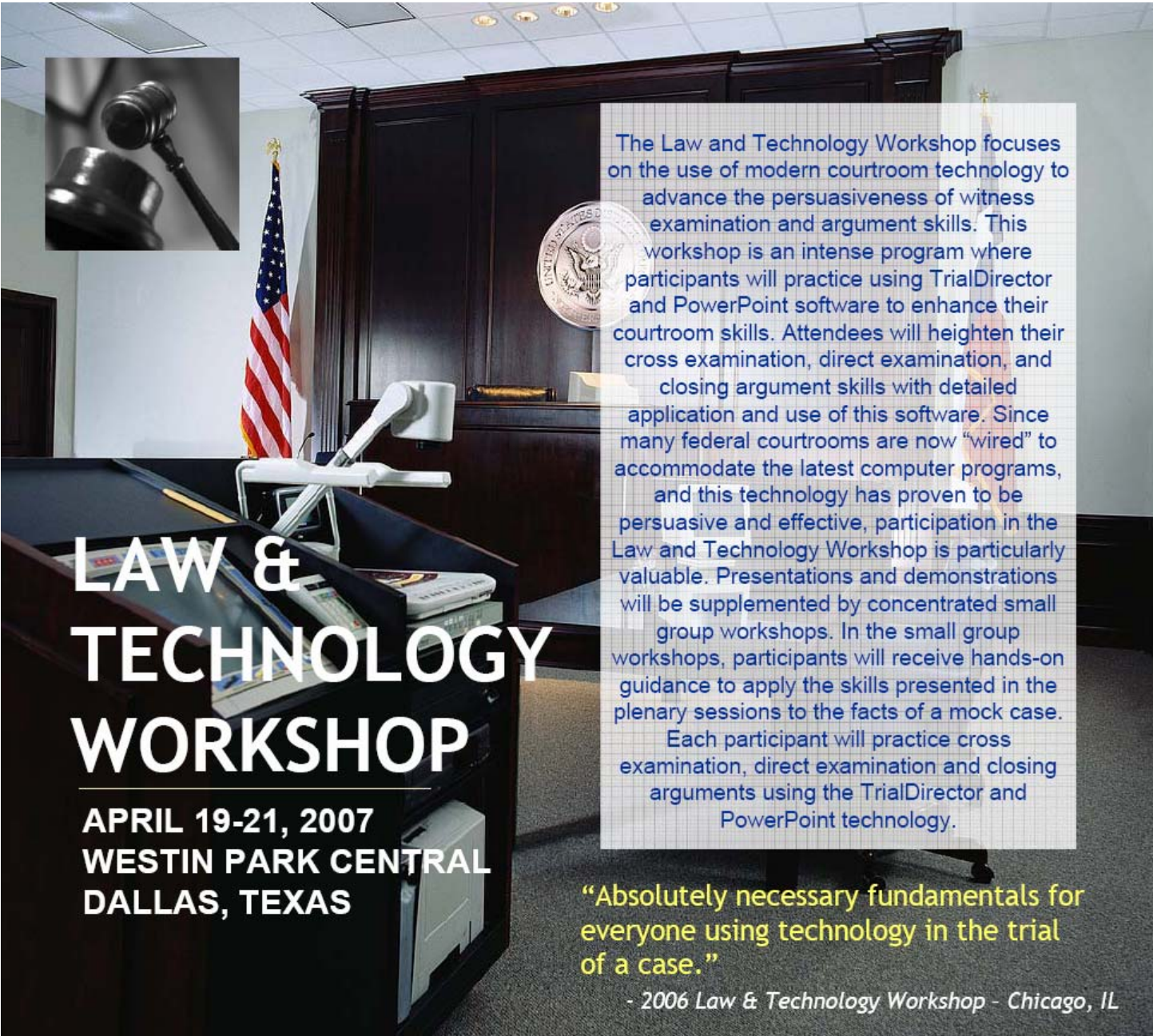
- 7:30 - 8:00 a.m. **Continental Breakfast**
- 8:00 - 9:00 a.m. **Federal Sentencing and the Perfect Presentence Report**
Richard Crane, Nashville, TN
- 9:00 - 10:00 a.m. **"In Defense of Andrea Yates: The Verdict's Impact"**
George Parnham, Houston, TX
- 10:00 - 11:00 a.m. **Professionalism: "It's a Small World After All"**
Will Korman, Boston, MA
- 11:00 - 11:15 a.m. **Break**
- 11:15 - 12:15 p.m. **Ethics: "There are Things You Can Do You Ought Not"**
Mike DeGeurin, Houston, TX
- 12:15 - 1:15 p.m. **The Fourth Amendment as the Roberts Bench Sees It: Search and Seizure**
Cynthia Hujar Orr, San Antonio, TX

SATURDAY, APRIL 28, 2007

- 8:00 - 9:00 a.m. **Professionalism: "Being A Lawyer To Be Reckoned With"**
Jeff Weiner, Miami, FL
- 9:00 - 10:30 a.m. **The Rings of Immigration Hell: The Collateral Consequences of Criminal Convictions to Aliens**
Robert McWhirter, Phoenix, AZ
- 10:30 - 11:30 a.m. **Freud 101 for the Lawyer: How Do You Relate to Your Client?**
Debra DePrato, MD, Baton Rouge, LA
Laurie White, New Orleans, LA

**** This schedule will allow 14.5 hours of Louisiana CLE credit. Other States may vary.**

New Orleans
For New Orleans Jazz and Heritage Festival information please see their website at:
www.nojazzfest.com
JAZZ FEST



LAW & TECHNOLOGY WORKSHOP

**APRIL 19-21, 2007
WESTIN PARK CENTRAL
DALLAS, TEXAS**

The Law and Technology Workshop focuses on the use of modern courtroom technology to advance the persuasiveness of witness examination and argument skills. This workshop is an intense program where participants will practice using TrialDirector and PowerPoint software to enhance their courtroom skills. Attendees will heighten their cross examination, direct examination, and closing argument skills with detailed application and use of this software. Since many federal courtrooms are now "wired" to accommodate the latest computer programs, and this technology has proven to be persuasive and effective, participation in the Law and Technology Workshop is particularly valuable. Presentations and demonstrations will be supplemented by concentrated small group workshops. In the small group workshops, participants will receive hands-on guidance to apply the skills presented in the plenary sessions to the facts of a mock case. Each participant will practice cross examination, direct examination and closing arguments using the TrialDirector and PowerPoint technology.

"Absolutely necessary fundamentals for everyone using technology in the trial of a case."

- 2006 Law & Technology Workshop - Chicago, IL

"Takes fear of technology and deals with it."

"Small groups and hands on experience were ideal for learning these programs."

"Excellent seminar with wonderful presenters and teachers."

"Very good - lots of practical advice and one-on-one work."

*-- Testimonials from
2006 Law and Technology Workshop, Chicago, Illinois*

For a complete list of training programs offered by the Office of Defender Services/Training Branch, please visit our website at **WWW.FD.ORG**

Recommended Training Programs for Panel Attorneys

KENTUCKY DEATH PENALTY INSTITUTE

HURSTBORNE HOLIDAY INN, LOUISVILLE, KENTUCKY - APRIL 16-20, 2007

Contact: Margaret O'Donnell: 502-227-2142

The Federal Death Penalty Resource Counsel (FDPRC) and Capital Resource Counsel (CRC) Projects are pleased to announce the Kentucky Death Penalty Institute, which is a week long death penalty trial skills institute sponsored by the Kentucky Department of Public Advocacy. A very limited number of scholarships will be available to counsel currently appointed under the Criminal Justice Act in federal capital cases, which will cover travel, lodging (double occupancy) and tuition (including breakfast and lunch).

LAW & TECHNOLOGY WORKSHOP

SANTA MONICA, CALIFORNIA - JULY 26 - 28, 2007

The Law and Technology Workshop focuses on the use of modern courtroom technology to advance the persuasiveness of witness examination and argument skills. This workshop is an intense program where participants will practice using TrialDirector and PowerPoint software to enhance their courtroom skills. Attendees will heighten their cross examination, direct examination, and closing argument skills with detailed application and use of this software. Download registration form at: http://www.fd.org/pdf_lib/RegPanel.pdf

CLARENCE DARROW DEATH PENALTY DEFENSE COLLEGE

DEPAUL LAW SCHOOL, CHICAGO, ILLINIOS - MAY 29 - JUNE 2, 2007

Contact: Molly Burke: 312-362-5837, Ajitha Reddy: 312-362-5806

This is an intensive death penalty trial practice institute. The Office of Defender Services' Training Branch provides financial assistance to a limited number of lawyers with federal capital cases to attend this college.

WINNING STRATEGIES SEMINARS

ATLANTA, GEORGIA (Tentative) - JUNE 14-16, 2007

Experienced and new panel attorneys can benefit from attending the Winning Strategies seminars. These programs offer varied presentations on topics of interest in both large and small group settings. Winning Strategies focuses on the nuts and bolts of federal criminal practice including the sentencing guidelines and sentencing mitigation. The impact of important cases such as Booker and Crawford, and Fourth, Fifth and Sixth Amendment issues are also covered, along with sessions on preparing effective opening statements, closing arguments, and cross examinations, defending methamphetamine and gang cases, and attacking wiretap evidence. In addition, there are presentations on the use of technology in the courtroom and an explanation of CJA guidelines and procedures. Download registration form at: http://www.fd.org/pdf_lib/RegPanel.pdf

ANTHONY G. AMSTERDAM POST-CONVICTION SKILLS SEMINAR

STATE BAR OF GEORGIA, ATLANTA, GEORGIA - JUNE 14-17, 2007

Contact: samantha_wadkins@ao.uscourts.gov

This seminar is an intense "learning-by-doing" program, designed to teach the skills necessary to prepare for and conduct a post-conviction hearing in a capital case. Heading up the faculty is the nation's most innovative thinker in the areas of capital defense and clinical legal education, Anthony G. Amsterdam.

REGIONAL TRAININGS

NEW YORK CITY, NY - JUNE 11, 2007

Contact: Margaret O'Donnell: 502-227-2142

Three one-day regional training opportunities are scheduled for 2007 at the times and places listed above. These training events are intended for CJA attorneys and Federal Defenders assigned to represent persons charged with or convicted of federal capital offenses and will cover, among other possible topics review of legal and case related developments as well as other issues relevant to federal death penalty litigation. There will also be presentations related to developing and presenting mitigation evidence, mental health issues and working with survivors.

LACDL'S DEATH PENALTY CLE SEMINAR

PARAGON CASINO RESORT, MARKSVILLE, LA - JULY 27-28, 2007

MESSAGE

Board

- Effective April 1, 2007, there will be a cost of living adjustment for panel attorneys. The hourly rate will increase to \$94 in non-capital cases and \$166 in capital cases. Effective February 1, 2007, the new mileage rates for use of privately owned vehicles while on official travel will increase to 48.5 cents per mile.
- If you anticipate a case proceeding to trial, please contact Barbara Daigle for instructions concerning witness travel and fees. Prior approval for any out-of-state witness must be obtained in order to compensate witnesses for expenses.
- The cost of service of subpoenas is not a reimbursable expense. The U.S. Marshals are responsible for service of all subpoenas at no cost in any CJA case and will do so if timely submitted. These requests for service can be filed under seal.
- A two-hour orientation for new panel members is scheduled for Thursday, April 19, 2007, from 9:00 - 11:00 A.M. The session will be held in the district court's jury room on the first floor of the courthouse. If you would like a refresher on CJA practices or would like to send your assistant, please feel free to attend this session. We will be introducing a \$59 software program which we are requiring new members to use and encouraging old members to purchase. The software is designed specifically for the preparation and submission of CJA vouchers and can expedite the payment process. We also anticipate being able to submit vouchers for payment electronically in the near future. If you are interested in purchasing the software, please contact Heather Crain at 504-589-7930.
- If you have a case that is likely to go to trial, and would like a second chair, there are new panel members, eager for federal trial experience, who will try the case with you at no charge. Please contact Barbara in our office as soon as trial becomes likely so that the new panel member will have sufficient time to meaningfully participate in the trial preparation.
- As your CJA Representative, Herb Larson has been invited to the 2007 Fifth Circuit Conference. Please bring any issues you would like raised to his attention within the next 30 days.

FEDERAL PUBLIC DEFENDER'S OFFICE

Hale Boggs Federal Building
500 Poydras Street
Suite 318
New Orleans, LA 70130