

A SC BAR CLE DIVISION **LIVE SEMINAR:**

2017 IT'S ALL A GAME:

Top Trial Lawyers Tackle Evidence



Friday, February 17

SC Bar Conference Center
1501 Park St., Columbia

Also via 13 video-CLE sites and via Live Webcast.

ABOUT THE PROGRAM

The South Carolina Bar-CLE Division is proud to present the 2017 edition of one of our most popular seminars. Created by Supreme Court Justice John Few (who will be in attendance) this innovative, powerful, and practical seminar always takes an entertaining and insightful look at some of the thorniest evidence problems any trial lawyer or judge could face, and this year is no exception. Course Planner and moderator Andy Moorman has brought together a truly outstanding faculty of talented and experienced trial attorneys for an unforgettable and entertaining learning experience.

If you are a South Carolina litigator who wants to sharpen your evidence skills and knowledge, or you simply want to come to the most exciting CLE program you have ever attended, then you don't want to miss the 2017 It's All a Game: Top Trial Lawyers Tackle Evidence!

This seminar is an intermediate to advanced level program.

AGENDA

8:30 a.m. Registration

8:50 a.m. Welcome and Opening Remarks

9 a.m. Imagine That: What to do When a Witness Testifies Inconsistently with a Previous Statement the Witness Has Given

Andrew B. Moorman, Sr. Assistant U.S. Attorney, Greenville

This presentation will discuss Rule 613 and how to impeach witnesses with their prior inconsistent statements. The presentation also will focus on differences between Rule 613 of the South Carolina Rules of Evidence and Rule 613 in the Federal Rules of Evidence.

10 a.m. Forensic Psychologists: Soft Science in Hard Cases

Hannah Rogers Metcalfe, Metcalfe & Atkinson, LLC, Greenville

This presentation focuses on expert opinion testimony that forensic psychologists provide in domestic relations cases, in criminal cases, and in tort cases. Specifically, the presentation will discuss how *Daubert* and *Council* apply when these experts' opinions constitute subjective interpretations of data gleaned from interviews, testing, and other non-scientific sources.

11 a.m. Break

11:15 a.m. As Far as Practicable: Authenticating Drug Screen Evidence and the Application of Chain of Custody Concepts to the Evidence

Kirby Mitchell, Senior Litigation Attorney, South Carolina Legal Services, Greenville

Rule 901 requires lawyers who seek to introduce evidence to show that the item of evidence they seek to introduce is what they claim it to be. When lawyers seek to introduce an item of evidence that is fungible, or not readily identifiable, lawyers often must establish a chain of custody for the item "as far as practicable" to satisfy the requirements of Rule 901. This presentation seeks to explain how courts have applied the concept of chain of custody to drug screen evidence and discusses how the phrase "as far as practicable" may have different meanings, depending on the context in which it is applied.

12:15 p.m. Lunch



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1:30 p.m. Is Honesty Always the Best Policy? Offering Statements for Reasons Other Than Their Truth and a Discussion of Other Non-hearsay Statements

Lisa Bentley, Assistant Solicitor, 13th Judicial Circuit, Greenville

Lawyers often concede that out-of-court statements are offered for their truth but rely on exceptions to the hearsay rule as a basis for avoiding the exclusion of this evidence. In this presentation, we will discuss the utility of first arguing, if possible, that these statements are not offered for their truth and/or are exempted from the definition of hearsay by Rule 801.

2:30 p.m. OSIs: The Evolution and Application of Watson and Branham

Brady Thomas, Richardson Patrick Westbrook & Brickman, LLC, Columbia

Rule 402 states that "[r]elevant evidence is admissible unless" the Constitution, a statute, or rule provides otherwise. Rule 403 provides that a "court may exclude relevant evidence if its probative value is substantially outweighed by a danger of" unfair prejudice, confusing the issues, and/or other considerations. This presentation seeks to address the interplay between these rules and the Supreme Court's discussion of the "substantially similar" test in *Watson* and *Branham* for the introduction of other similar incidents evidence in products liability cases. The presentation also will discuss what, if any, application this test has to cases that do not involve products liability.

3:30 p.m. Break

3:45 p.m. More Than Facebook: The Litigator's Guide to Social Media Evidence

Meliah Bowers Jefferson, Wyche P.A., Greenville

This presentation will discuss the proliferation of the use of social media and its content as a source of evidence for litigation matters including a discussion on the key benefits and pitfalls of using social media as evidence in your case. We will focus on special considerations for discovery and authentication of social media content to make sure you know how it can and cannot be used in your case, as well as the role of social media in a jury trial.

4:45 p.m. Adjourn

MCLE/LEPR CREDIT

This program qualifies for 6.0 MCLE credit hours.



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HOW TO REGISTER:

E-MAIL—Complete this form, scan and e-mail to registrar@scbar.org.

MAIL—Complete this form and mail to: SC Bar-CLE, P.O. Box 608, Columbia, SC 29202.

ONLINE—www.scbar.org/shop-cle, click the Calendar then select this seminar.

For assistance or to register by phone, call (803) 771-0333 or (800) 768-7787.

REGISTRATION FORM, #17-04

Name: _____ Bar#: _____

Firm/Court: _____

Address: _____

City, State, Zip: _____

Phone: _____

E-mail: _____

Please indicate where you will attend the seminar:

Live at the SC Bar Conference Center, Columbia or

Thirteen video-CLE sites (check one):

Aiken Anderson Beaufort Charleston Florence Greenville Greenwood Hilton Head
 Myrtle Beach Rock Hill Spartanburg Summerville Sumter

Registration Fees:

\$240 Early Bird \$290 Regular (received after 2/3)

Also available via webcast! For details, visit www.scbar.org/webcasts

Enclosed is my check in the amount of \$_____

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All registrations must be pre-paid. Cancellation & Refund Policy: Refunds, less \$25 administrative fee, will be made for cancellations received in writing to the CLE Registrar at registrar@scbar.org by 5 p.m., one week prior to the seminar. Cancellations will not be accepted within one week of seminar date. One-time transfers to seminars of like value or to the live web cast of the seminar (if available) will be accepted for a \$25 administrative fee in lieu of cancellations within one week of seminar. Requests to transfer to the live web cast must be received by 1p.m. the day prior to the program. Designated substitutes may take the place of registrants unable to attend.

If you have a disability, please call ahead to let us know how we may accommodate your needs.