



The Advocacy Institute Is Pleased to Announce

PROGRAM ANNOUNCEMENT

DEPOSITION SKILLS TRAINING

June 1 and 2, 2016
Richard J. Hughes Justice Complex
6th Floor Point Meeting Area – Attorney General's Library
25 Market Street
Trenton, New Jersey

Program Summary

All registrants must have approval from their supervisors to attend AND the supervisors must assure Institute staff that the attendee will have no conflicting assignments during the two days of this program. DASG will not be allowed to register without the required supervisor assurance.

This two-day deposition skills program focuses on enhancing the skills needed to elicit information and obtain admissions effectively through depositions. Participants will enhance their deposition skills through exercises where they conduct deposition examinations and defend depositions in a simulated deposition setting, followed by faculty commentary and critique. Presentations on various topics relevant to effective depositions will supplement participant performances and faculty critique. The exercises will focus on: the methods and ethics of witness preparation, dealing with preliminary matters, a technique for effectively eliciting complete information from witnesses, making and responding to objections, dealing with the difficult adversary, using exhibits, and obtaining admissions.

Who Should Attend?

This program is intended for Deputy Attorneys General with little or no deposition experience whose names have already been submitted.

Who Is the Faculty?

Experienced members of the Attorney General's Advocacy Institute's faculty will be teaching this course.

CLE Credit

NJ CLE Credit: This program has been approved by the Board on Continuing Legal Education of the Supreme Court of New Jersey for 14.1 hours of total CLE credit. Of these, 1.2 qualify as hours of credit for ethics/professionalism, and 14.1 qualify as hours of credit toward certification in civil trial law.

NY CLE Credit: 13.0 substantive and 1.0 ethics credits (pursuant to the approved jurisdiction policy).

PA CLE Credit: 10.5 substantive and 1.0 ethics credits (\$18.00 mandatory registration fee required).

How Do I Register?

State Employees

Most State employees are able to register for this course by going to <http://reg.dcj.lps.state.nj.us/login.aspx?portalid=2> and creating an AGAI Course Registration account. To do so, your computer **must** be attached to the government's Garden State Network. Upon opening the AGAI Course Registration System home page, you will see the Create Account link in the Login Box. Click on it and create your account, which will include you selecting a user name and password. Once you create your account, you can access the AGAI Course Registration System at <http://reg.dcj.lps.state.nj.us/login.aspx?portalid=2> to register for future courses or to manage your account. Please retain your user name and password for your records.

Non-State Employees or State Employees not Connected to the Garden State Network

If you are not a State employee, or are otherwise unable to access the AGAI Course Registration System through the Garden State Network, kindly email the Advocacy Institute at: AdvocacyInstitute@lps.state.nj.us for an authorization code to allow you access to the AGAI Course Registration System through the My New Jersey portal. **Setting up your account through the portal is a two-step process, the details of which are set forth in the next two paragraphs.**

Once you receive the portal authorization code you will be prompted to go to the My New Jersey portal at <http://www.state.nj.us/> and create a portal account. This is Step 1 of the process, which you need only do once.

Upon setting up your portal account, you need to set up your AGAI Course Registration System account. This is Step 2. To do so, log on to the My New Jersey Portal <http://www.state.nj.us/>. Upon opening the AGAI Course Registration System home page, you will see the Create Account link in the Login Box. Click on it and create your account, which will include you selecting a new user name and password. Once you create your account, you can access the AGAI Course Registration System at <http://reg.dcj.lps.state.nj.us/login.aspx?portalid=2> to register for future courses or to manage your account. Please retain your user name and password for your records.



DEPOSITION SKILLS TRAINING

June 1 & 2, 2016

Program Schedule

Introduction

All registrants must have approval from their supervisors to attend AND the supervisors must assure Institute staff that the attendee will have no conflicting assignments during the two days of this program. DASG will not be allowed to register without the required supervisor assurance.

This deposition skills program will use the “learn-by-doing” teaching method. The emphasis will be on participant performance of various deposition skills followed by constructive faculty critiques.

The program is intensive. There is little preparation time available during the program. Before arriving at the program, participants must become thoroughly familiar with the *Polisi v. Clark, et al.* case file, and prepare for each workshop before it begins.

We recommend that participants review David A. Malone, et al., *The Effective Deposition: Techniques and Strategies that Work* (2nd ed. 1996 or 3rd ed. 2007) to help prepare for the program. A loaner copy will be provided to you by the Attorney General’s Advocacy Institute. As future participants will be loaned this same book, it is imperative that you do not write in the book and that you return it to the Advocacy Institute at the conclusion of the program.

For purposes of this program, each participant has been designated as either an “A” or a “B.” Unless otherwise stated in the program schedule, A’s will represent plaintiff Margaret Polisi and B’s will represent defendants Simon Clark and Parker & Gould throughout the program.

Assume that each exercise will be conducted in a simulated deposition setting as if it were an actual deposition. Assume further that the New Jersey Court Rules govern the proceedings. ***There will be a time limit for each performance. When preparing your assigned exercises, it will often be obvious that you cannot complete the full exercise in the time allotted. Please do not try to complete a 20-minute examination in 7 or 8 minutes. Your performance, for whatever duration, should reflect what you would do if you were actually deposing the witness.***

WEDNESDAY, JUNE 1, 2016

Welcome; *Skills for Effectively Taking and Defending Depositions* Presentation; Case Theory Workshop; Deposing Clifford Fuller Workshop; Deposing Jayne Post Workshop; and *The Methods and Ethics of Witness Preparation*.

The first day will begin with the presentation *Skills for Effectively Taking and Defending Depositions* which is intended to enable participants to effectively depose fact witnesses, and to assist participants in developing technically sound and persuasive approaches for doing so, including how to deal with opposing counsel.

We will continue with the Case Theory Workshop. The A's will meet as a group with their faculty facilitator, and the B's will meet separately as a group with their faculty facilitator. For purposes of this workshop, participants will work with each other on developing a unified case theory for their side. Case theory operates on three levels: legal theory, factual theory, and persuasive theme. Legal theory is why, as a matter of law, your client should prevail. Factual theory is a construction of the facts of the case that explains what really happened and why. It includes an analysis of the "good" and "bad" facts in the case and how they can be harmonized in a way that is favorable to your side's case and unfavorable to the other side. Persuasive theme is a way of presenting the case to make the jury want to find in favor of your client. Once you have determined your unified case theory, the rest of your case planning should evolve from it. Faculty will facilitate the discussion during this session.

The afternoon session begins with the Deposing Clifford Fuller Workshop, which is designed to allow each participant to enhance his/her deposition skills. While each B should prepare to fully examine the witness, he/she will be unable to do so due to time constraints. Instead, each B will examine the witness on one designated topic area only, the selection of which will depend upon the order in which he/she performs during the workshop. Each A will defend Cliff Fuller as he/she would at deposition.¹ Faculty critiques will focus primarily on each B's question form, organization, and use of the various funnel techniques discussed during this morning's first presentation, as well as each A's effectiveness in defending the witness, including interposing appropriate objections and issuing appropriate instructions.

The afternoon session continues with the Deposing Jayne Post Workshop, which is designed to allow each participant to enhance his/her deposition skills. While each A should prepare to fully examine the witness, he/she will be unable to do so due to time constraints. Instead, each A will examine the witness on one designated topic area only, the selection of which will depend upon the order in which he/she performs during the workshop. Each B will defend Jayne Post as he/she would at deposition.² Faculty critiques will focus primarily on each A's question form, organization, and use of the various funnel techniques discussed during this morning's first

¹ Each A may assume for the purposes of this workshop **only** that he/she has been retained to represent Mr. Fuller.

² Each B may assume for the purposes of this workshop that he/she has been retained to represent Ms. Post's interests and that Ms. Post is being called as a fact witness and not under [Fed. R. Civ. P. 30(b) (6) or New Jersey Court Rule 4:14-2(c)].

presentation, as well as each B's effectiveness in defending the witness, including interposing appropriate objections and issuing appropriate instructions.

The afternoon session ends with a presentation on *The Methods & Ethics of Witness Preparation* presentation, which is intended to provide participants with an overview of how to effectively and ethically prepare their witnesses for deposition.



A's prepare: A unified case theory for Margaret Polisi
To depose Jayne Post

B's prepare: A unified case theory for Parker & Gould and Simon Clark
To depose Clifford Fuller

8:30 a.m. - 9:00 a.m. Faculty Meeting

8:45 a.m. - 9:00 a.m. Student Registration

9:00 a.m. - 9:15 a.m. Welcome

9:15 a.m. - 10:45 a.m. Presentation: *Skills for Effectively Taking & Defending Depositions*
Presenter: AAG Anthony Zarrillo

10:45 a.m. - 11:00 a.m. Break

11:00 a.m. - 12:00 p.m. Performance Workshop: Case Theory
All A's: *Faculty*
All B's: *Faculty*

12:00 p.m. - 1:00 p.m. Lunch (on your own)

1:00 p.m. - 2:15 p.m. Performance Workshop: Deposing Clifford Fuller
B's will depose Clifford Fuller. Although each B should be prepared to fully depose the witness, he/she will examine the witness on only one topic area, and should restrict his/her examination to that topic area:

(a) preliminary matters (including the deposition process) and the witness's personal history (including his educational and employment background);

(b) his knowledge of Parker & Gould's policies and practices (including the firm's hiring practices, associate evaluation process, and the firm's sexual

harassment policies), his relationship with Simon Clark, and his knowledge of Simon Clark's sexual relationships with women at the firm other than Margaret Polisi;

(c) his relationship with Margaret Polisi from YR-17 through December 15, YR-2, and his knowledge of Margaret Polisi's relationship (professional and personal) with Simon Clark during this period;

(d) the circumstances surrounding the decision on Margaret Polisi's partnership (including his and Simon Clark's involvement in the process), his involvement in Margaret Polisi's efforts to find other employment (including Simon Clark's role in the process), and his relationships with Margaret Polisi and Simon Clark after Margaret Polisi left Parker & Gould; or

(e) any other relevant area of inquiry.

Each A should defend his/her client's interests.

2:15 p.m. - 2:30 p.m.

Break

2:30 p.m. – 3:45 p.m.

Performance Workshop: Deposing Jayne Post

A's will depose Jayne Post. Although each A should be prepared to fully depose the witness, he/she will examine the witness on only one topic area, and should restrict his/her examination to that topic area:

(a) preliminary matters (including the deposition process) and the witness's personal history (including her educational and employment background);

(b) her knowledge of Parker & Gould's policies and practices (including the firm's hiring practices, associate evaluation process, and the firm's sexual harassment policies), her relationship with Simon Clark, and her knowledge of Simon Clark's sexual relationships with women at the firm other than Margaret Polisi;

(c) her relationship with Margaret Polisi from YR-17 through December 15, YR-2, and her knowledge of Margaret Polisi's relationship (professional and personal) with Simon Clark and Cliff Fuller during this period;

(d) the circumstances surrounding the decision on Margaret Polisi's partnership (including her and Simon Clark's involvement in the process), and Margaret Polisi's efforts to find other employment (including Simon Clark's and Cliff Fuller's roles in the process); or

(e) any other relevant area of inquiry.

Each B should defend his/her clients' interests.

3:45 p.m. - 4:00 p.m.

Break

4:00 p.m. – 5:00 p.m.

Presentation: *The Methods and Ethics of Witness Preparation*
Presenter: AAG Daniel F. Dryzga

THURSDAY, JUNE 2, 2016

Handling and Using Exhibits and Making and Handling Objections Presentation; Witness Preparation Workshop; Deposing Margaret Polisi Workshop; Deposing Simon Clark Workshop; and Wrap-up Session

The morning session begins with the presentation: Handling and Using Exhibits and Making and Handling Objections, which is intended to provide participants with an overview of techniques for using exhibits and making objections.

The morning session continues with the Witness Preparation Workshop, the primary goal of which is for the participants to effectively and ethically prepare their witness for deposition using one or more of the methods discussed during the preceding presentation. The participants should: 1) ensure that they are aware of all relevant information the witness may have concerning the case; 2) provide the witness with appropriate advice concerning the upcoming deposition, including addressing the witness's concerns; and 3) conduct a mock deposition exercise with the witness (time allowing). Each group of 8 participants will be divided, with A's being assigned one faculty member and the B's being assigned another faculty member. Participants should take the first fifteen minutes of the workshop to discuss their strategy for preparing the witness, which should include a discussion of who among them will cover the topics noted, and what areas of likely inquiry they should focus upon in the limited time they have with the witness. Faculty critique will focus on the effectiveness of the preparation efforts and the ethical concerns participants should be aware of when preparing their witnesses. The

afternoon will be devoted to the depositions of Simon Clark & Margaret Polisi. Participants should review the applicable “court rules” below before the deposition. Following the depositions will be a critique session in which the faculty member will offer his/her comments concerning each participant’s performance during the depositions.

The afternoon will be devoted to the depositions of Simon Clark & Margaret Polisi. Participants should review the applicable “court rules” below before the deposition. Following the depositions will be a critique session in which the faculty member will offer his/her comments concerning each participant’s performance during the depositions.

The program will end with a brief wrap-up session.

A’s prepare: To prepare Margaret Polisi for deposition
To depose Simon Clark

B’s prepare: To prepare Simon Clark for deposition
To depose Margaret Polisi

8:30 a.m. - 9:00 a.m. Faculty meeting

9:00 a.m. - 10:15 a.m. Presentation: *Handling and Using Exhibits and Making and Handling Objections*
Presenter: AAG Anthony Zarrillo

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

10:30 a.m. - 11:30 a.m. Performance Workshop: Witness Preparation

Each A will assist in preparing Margaret Polisi for her deposition. Participants may assume they have previously met with Margaret Polisi, worked with her in the preparation of written discovery and pre-trial motions, and spoken preliminarily with her in anticipation of this preparation session.

Each A should be prepared to address the following topics with their witness: Preliminary matters (e.g., deposition scheduling, location, who may be there, etc.); Any housekeeping matters (e.g., has anything happened since last they met); General advice concerning the upcoming deposition (e.g., demeanor, weaknesses, open issues, etc.); Any concerns the witness may have; Areas that are commonly examined; Major issues of concern.

Each B will assist in preparing Simon Clark for his deposition using one or more of the preparation methods discussed during the preceding presentation. Participants may assume they have previously met with Simon Clark, worked with him in the preparation of written discovery and pre-trial motions, and spoken preliminarily with him in anticipation of this preparation session.

Each B should be prepared to address the following topics with their witness: Preliminary matters (e.g., deposition scheduling, location, who may be there, etc.); Any housekeeping matters (e.g., has anything happened since last they met); General advice concerning the upcoming deposition (e.g., demeanor, weaknesses, open issues, etc.); Any concerns the witness may have; Areas that are commonly examined; Major issues of concern.

11:30 a.m. – 12:30 p.m.	Lunch (on your own)
12:30 p.m. – 2:00 p.m.	Deposition of Margaret Polisi
2:00 p.m. – 2:15 a.m.	Break
2:15 p.m. – 3:45 p.m.	Deposition of Simon Clark
3:45 p.m. – 4:15 p.m.	Faculty Critique Session
4:15 p.m. – 4:30 p.m.	Wrap-up Session (All meet together)