19th Annual
FESTIVAL of Legal Learning

February 6 & 7, 2009
William & Ida Friday Center
Chapel Hill, North Carolina

Register Online and Save $25
About the Program

UNC School of Law’s Festival of Legal Learning is a convenient, affordable and enjoyable way to satisfy your CLE requirements. Designed to build basics, sharpen skills, provide perspectives and highlight new developments in the field of law, the Festival offers more than 90 sessions over a two-day period. This diverse program also lets you customize your learning and choose the courses most related to your needs. And, the depth of programming and the time-intensive format offers you 12 hours of CLE credit within this concise day-and-a-half time period. The quality of the courses you select is assured. Your instructors are recognized experts in their fields and include professors from the UNC schools of law, government, and medicine, as well as distinguished guest faculty. The Festival of Legal Learning will once again be held at The William & Ida Friday Continuing Education Center, a beautiful facility designed especially for continuing education programs. The Friday Center has ample parking and meeting space, as well as areas for informal conversation and quiet study for conference participants.

Please join us February 6 & 7 for

THE 19TH ANNUAL
FESTIVAL
of Legal Learning

FRIDAY
February 6

7:00 a.m.................... Registration Desk Opens
7:30 a.m. - 8:00 a.m........ Continental Breakfast
8:00 a.m. - 9:00 a.m............... Session One
9:10 a.m. - 10:10 a.m........... Session Two
10:20 a.m. - 11:20 a.m............. Session Three
11:30 a.m. - 12:30 p.m............. Session Four
12:30 p.m. - 1:30 p.m............... Lunch

A lunch buffet provided by the Friday Center is available for $15. Please sign up for the buffet on your registration form. (Buffet lunch reservations must be made with the Office of CLE by January 30, 2009.)

1:30 p.m. - 2:30 p.m. ............... Session Five
2:40 p.m. - 3:40 p.m. ............... Session Six
3:50 p.m. - 4:50 p.m. ............... Session Seven
5:00 p.m. - 6:00 p.m. ............... Session Eight

6:30 p.m. – 9:00 p.m........Donald F. Clifford Jr. Distinguished Lecture

Separate ticket is required for this reception, dinner and lecture. Please sign up for this special event on your registration form. (Special event reservations must be made with the Office of CLE by January 30, 2009.)

SATURDAY
February 7

7:30 a.m.................... Registration Desk Opens
7:30 a.m. - 8:00 a.m........ Continental Breakfast
8:00 a.m. - 9:00 a.m............... Session One
9:10 a.m. - 10:10 a.m........... Session Two
10:20 a.m. -11:20 a.m............. Session Three
11:30 a.m. - 12:30 p.m............. Session Four
Join us for the

Donald F. Clifford Jr.
Distinguished Lecture

Martin D. Eakes

The Festival of Legal Learning is pleased to announce a new annual program honoring its founder, Aubrey L. Brooks Professor Donald F. Clifford Jr. Clifford served as a faculty member at School of Law from 1964 to 2004, specializing in commercial and consumer law. The Festival has for many years included a mini-symposium on consumer law and credit issues, drawing on Clifford’s leadership and contributions to this field.

UNC School of Law and friends have established the Donald F. Clifford Jr. distinguished Lecture on Consumer Law to be offered at a dinner held annually during the yearly Festival as a fitting tribute to Clifford’s many contributions to the profession and his vision for a more just society in which consumers are protected from unfair risks.

Martin D. Eakes

He first Donald F. Clifford Jr. Distinguished Lecturer is Martin D. Eakes, an inspiring visionary and brilliant lawyer who has developed models for a more just society through his vision for “community self-help.” Eakes is the chief executive officer of the Center for Responsible Lending and the Center for Community Self-Help. Since its start, Self-Help has made more than $5.24 billion in loans available to more than 60,130 families, individuals and organizations.

Eakes received his B.A. from Davidson College, J.D. from Yale and M.P.A. from Princeton. He was recognized as Tar Heel of the Year by the News and Observer in 2005 and received a MacArthur Foundation Genius Grant in 1996. A noted and engaging speaker, Eakes is well known for his work opposing predatory lending practices. He has been an important contributor to the current housing, credit and banking crisis debate.

The inaugural dinner will be held at the Trillium Room in the William and Ida Friday Continuing Education Center in Chapel Hill, on Friday February 6, 2009. The event will begin with a reception at 6:30 p.m., followed by dinner at 7:30 p.m., and concluding with a lecture by Eakes. Cost of attendance is $30.00. Reservations may be made as part of the Festival registration.

Need Ethics or Substance Abuse CLEs?
It’s easy to find. Look for the key!

(PR) = Professional Responsibility Credit  (SA) = Substance Abuse Credit
Consumer Law & Consumer Credit Symposium

Sponsored by the Center for Banking and Finance

The Consumer Law and Consumer Credit Symposium offers courses on a variety of issues related to the representation of consumers, with a focus on issues related to consumer credit law. Those who counsel consumers, those who counsel businesses that deal with consumers, and those who want to catch up with some of the rapidly evolving changes and regulations in the consumer marketplace will want to attend. Participants may attend all sessions or select among them as interest and schedules allow.

FRIDAY

<table>
<thead>
<tr>
<th>SESSION ONE</th>
<th>8:00 a.m. - 9:00 a.m.</th>
<th>SESSION FIVE</th>
<th>1:30 p.m. - 2:30 p.m.</th>
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<td>The North Carolina Foreclosure Prevention Project</td>
<td>Understanding the Financial Crisis: The Basics</td>
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<td>North Carolina’s Campaign against Predatory Lending</td>
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<th>SESSION EIGHT</th>
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<td>Identity Theft: New Trends to Protect You and Your Clients</td>
<td>Real Estate Practice for Beginners: Protecting Consumers in Challenging Times</td>
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SATURDAY

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<td>Foreclosure Prevention via Recent State and Federal Legislation Fueling Fair Practices</td>
<td>What the Non-Bankruptcy Lawyer Should Know About Bankruptcy</td>
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Beyond Editing: Effective Techniques for Helping Associates Improve Their Legal Analysis and Writing Skills
Ruth Ann McKinney, Clinical Professor of Law and Assistant Dean for Legal Writing and Academic Success, UNC School of Law
Most attorneys are asked to review the work of less experienced subordinates or to work with others in developing shared work product. This workshop will offer concrete techniques that move beyond mere editing to empower you to help summer clerks, less experienced associates and less proficient colleagues become confident, effective legal writers in their own right.

Corporate Investigations: Government, Criminal and Internal
Kearns Davis, Brooks, Pierce, McLendon, Humphrey & Leonard, L.L.P.
Representing companies accused of wrongdoing is fraught with risk. To simultaneously gather evidence, protect confidential information and communicate effectively with investigators is a delicate balancing act and one that attorneys must perform on shifting sands of evolving government policies. Learn how to protect your clients when they are in the crosshairs.

Eyewitness Identification in Criminal Trials: Law and Reality
Richard A. Rosen, Professor of Law, UNC School of Law
This program will focus on the United States Supreme Court’s attempts to use the Constitution to regulate potentially suggestive pretrial identification procedures in criminal cases. It will also discuss the recent development of non-Constitutional regulations spurred by the spate of wrongful convictions based on mistaken eyewitness identifications.

North Carolina Lawyers in Recent Books
D.G. Martin, Host, UNC-TV’s North Carolina Bookwatch and Attorney
A review of recent North Carolina books that deal with lawyers and their work— discussing and evaluating the authors’ and their characters’ understanding and insights into law practice and their relevance to today’s legal world. (The writings of Martin Clark, J.D. Rhoades, John Hart, Margaret Maron, Susie Sharp, Sam Ervin, et.al. will be covered in this session). (This session is a repeat from Festival 2008. This session does not qualify for PR credit in NC.)

Recent Developments in Family Law
K. Edward Greene, Wyrick Robbins Yates & Ponton, L.L.P.
This session will review North Carolina appellate cases addressing family law, filed within the last 12 months.

Sustainability, Energy Regulation and Climate Change: North Carolina’s Initiative
Jo Anne Sanford, Sanford Law Office & Blount Street Advisors and Former Chair, North Carolina Utilities Commission
This session will provide participants with an overview of recent legislation, regulations and litigation relating to energy conservation and sustainability in North Carolina.

Taxing Tax-exempts: A Primer on the Unrelated Business Income Tax
Robert W. Saunders, Brooks, Pierce, McLendon, Humphrey & Leonard, L.L.P.
This session will offer a nuts-and-bolts look at the unrelated business income tax imposed on tax-exempt organizations. The presentation will review the definition of unrelated business income, its exclusions and the treatment of debt financed income. In addition, we will discuss when unrelated business income may jeopardize tax-exempt status and what can be done to avoid this result. (Note: This session has moved to Saturday, session 44-7)

The North Carolina Foreclosure Prevention Project
Will Corbett, Staff Attorney, Office of the North Carolina Commissioner of Banks; Mark E. Pearce, Deputy Commissioner of Banks, Office of the North Carolina Commissioner of Banks
Global financial markets have reeled because of the subprime lending crisis and the high levels of foreclosures nationwide. While North Carolina has had fewer foreclosures than many states, the state has taken a number of steps to reduce unnecessary foreclosures. This presentation will discuss state efforts, report on their success and look ahead to the prognosis for 2009.

The Roberts Court and Access to Justice
Gene R. Nichol, Professor of Law and Director of the Center on Poverty, Work and Opportunity, UNC School of Law
This session will explore the unfolding record of the Roberts Court – particularly as it relates to access to the judicial system. Habeas corpus, gun cases, standing decisions, political question determinations and other rulings reveal a mixed, interesting and politically tinged developing agenda. The speaker will also address access to justice questions more generally.
FRIDAY SESSION TWO

9:10 a.m. - 10:10 a.m.

Casemaker 2.0: Research Made Easy
Nichelle J. Perry, Reference & Electronic Services Librarian, Kathrine R. Everett Law Library, UNC School of Law

Touting a powerful combination of state and federal materials, the North Carolina Casemaker Web Library puts the information you need to perform research at your fingertips. This session will highlight the new Casemaker 2.0 features and review how to locate cases and other primary research materials.

Contemporary Banking and Payment Scams
Edward C. Winslow III, Books Pierce McLendon Humphrey & Leonard, L.L.P.

The Internet, wired funds, counterfeit checks, telechecks (remotely created checks), credit cards and remotely captured funds. This presentation will examine three recent banking and payments scams, commenting on the impotence of traditional negotiable instruments rules and remedies.

Effective Advocacy and the Legislative Process
Norma Houston, Lecturer in Public Law and Government, UNC School of Government

This session will provide participants with an in-depth look at the legislative process and will provide insights about effective advocacy in the legislative context. The presenter is former counsel for North Carolina Senate President Pro Tempore Marc Basnight.

Establishing Non-Profit Organizations: Basics for Beginners
Thomas A. Kelley III, Associate Professor of Law, UNC School of Law

Many lawyers as asked to assist in the formation of non-profit organizations and their application for charitable status under federal tax law. This session will provide an opportunity to learn about the basics. (This session is a repeat from Festival 2008)

Recent Developments in Internet, Privacy and Business Communications Law

Nearly every business today uses the Internet in connection with its business activities or collects and stores personally identifiable information in digital form. This session will review the most significant recent developments in Internet privacy and business communications law, including issues as Net neutrality and the Red Flag Rule as well as recent decisions on cyberliability, copyrights and trademarks.

Termination of Parental Rights: Recent Developments
Janet Mason, Gladys Hall Coates Professor of Public Law and Government, UNC School of Government

The session will include discussion of recent North Carolina appellate court decisions relating to proceedings to terminate parental rights.

Understanding Mood and Substance Use Disorders: What Every Lawyer Should Know (SA)
Thomas W. Brown, Assistant Professor and Director, Substance Abuse Services, Department of Psychiatry and Behavioral Medicine, Wake Forest University School of Medicine

Brown will focus on the incidence and characteristics of mood disorders and substance use disorders among attorneys. (This session is a repeat from Festival 2007)

What’s New at the Federal Level: Regulating Our Wetlands and Coasts
Justin McCorcle, United States Army Corps of Engineers

This session will address the Army Corps of Engineers’ regulatory, civil works and navigation programs, including the effect of the new mitigation rule on coastal projects in North Carolina. It will highlight the new option for a preliminary jurisdictional determination; provide an update on recent case law interpreting the *Rapanos* decision, address structures over navigable waters; and consider the interaction between federally-funded and locally funded-beach and inlet projects.

Workshop: Master Class in Direct and Cross Examination (1 of 2)
Jonathan E. Broun, Center for Death Penalty Litigation; Kenneth S. Broun, Henry Brandis Professor of Law, UNC School of Law

This session will provide participants with an overview of techniques of direct and cross-examination. Participants will also have an opportunity to practice direct and cross-examination and will receive critiques and suggestions for improvement.

“Master Class in Direct and Cross Examination” is a two-hour course that begins in Session 2 and ends with Session 3. Participants should also attend Sessions 3-9.
FRIDAY
SESSION THREE
10:20 a.m. - 11:20 a.m.

A First Amendment Round-Up
C. Amanda Martin, Everett, Gaskins, Hanock & Stevens, L.L.P.
This session will provide an update of recent cases and legislation affecting the exercise of First Amendment and related rights in North Carolina.

Affirmative Immigration Remedies for Juveniles
Deborah M. Weissman, Reef C. Ivey II Distinguished Professor of Law and Director of Clinical Programs, UNC School of Law
This session will review the legal remedies available to juveniles who lack legal status in the United States. The presenter will cover special immigrant juvenile status; Violence Against Women Act remedies; U visas (crime victim) and T visas (trafficking); affirmative asylum application.

Domestic Violence: Practical Skills and a View from the Bench (1 of 2)
Beth S. Posner, Managing Attorney, Legal Aid of North Carolina and Visiting Assistant Clinical Professor, UNC School of Law; Beverly A. Scarlett, District Court Judge, District 15B, Orange and Chatham County
This session will provide an overview and critical analysis of North Carolina’s civil domestic violence statutes. It will also offer practical training for representing plaintiffs in domestic violence proceedings and suggest strategies for offering pro bono assistance. The presentation will combine the insights of a litigator with those of a member of the judiciary who serves on the North Carolina Domestic Violence Commission.

“Domestic Violence: Practical Skills and a View from the Bench” is a two-hour course that begins in Session 3 and ends with Session 4. Participants should also attend Sessions 4-4.

Ethics and Professionalism (PR)
Alice A. Ratliff, Clinical Professor of Law, UNC School of Law
In this session, participants will discuss ethical problems, as well as consider how beginning lawyers and more seasoned professionals sometimes see those problems from differing perspectives.

Evolving Water Law in a Time of Drought
Judith Welch Wegner, Barton I. L. G. Professor of Law, UNC School of Law; Richard B. Whisnant, Professor of Public Law and Government, UNC School of Government
This session will provide an overview of key dimensions of North Carolina water law as it has developed over the years. It will also consider recent legislative changes and North Carolina’s ongoing study of possible reforms in this area of the law.

High Schools in the Wake of the Grutter, Gratz and PICS Decisions
John Charles Boger, Dean and Wade Edwards Distinguished Professor of Law, UNC School of Law; William A. Tobin, Consulting Attorney, Center for Civil Rights, UNC School of Law and Visiting Associate Professor, Department of Sociology, Duke
This session will explore the legal, educational and policy implications of an ongoing initiative that is animated by the question: Might our nation’s leading colleges and universities create incentives for parents and school officials to voluntarily create more economically and racially diverse high schools by awarding an admissions preference to academically qualified high school students who have acquired diversity skills and experiences?

Non-Lawyers and Mortgage Loans
J. Jerome “Jerry” Hartzell, Hartzell, Hartzell & Whiteman, L.L.P.
Unlike many other states, North Carolina allows only lawyers to certify real estate titles or conduct real estate “closings.” However, the precise role that non-lawyers can properly play in mortgage loans is a subject of controversy. This panel discussion will address the issues raised by North Carolina law, the sub-prime mortgage debacle, the Federal Trade Commission and recent litigation.

Perpetual Trusts: Allowing Perpetuities in North Carolina
John V. Orth, William Rand Kenan Jr. Professor of Law, UNC School of Law
In 2007, North Carolina became the latest state to allow perpetual trusts. In 1776, it was the first state to include in its state constitution a provision banning “perpetuities.” The provision is still there, N.C. Const. Art. I, § 34 and 10 states have similar or identical provisions. Squaring the statute with the Constitution (if it can be done) requires exploration of the meaning of “that unfortunate word,” perpetuity.

Workshop: Master Class in Direct and Cross Examination (2 of 2)
Jonathan E. Broun, Center for Death Penalty Litigation; Kenneth S. Broun, Henry Boulds Professor of Law, UNC School of Law
“Master Class in Direct and Cross Examination” is a two-hour course that begins in Session 2 and ends with Session 3. Participants should also attend Sessions 2-9. Please see the course description in Session 2 for more information.

Workshop: Master Class in Direct and Cross Examination (2 of 2)
FRIDAY  
SESSION FOUR  
11:30 a.m. - 12:30 p.m.

Dealing with the Press  
DeWitt E. “Mac” McCarley, City Attorney of Charlotte  
You will never have to say “no comment” again. This session is a practical guide on how to prepare for and handle newspaper and TV interviews. The presentation will include what to expect from reporters, how to recognize and avoid common traps, how to craft and deliver your message and tips for on-camera interviews. The session will end with an audience participation demonstration.

Development Agreements: A New Way of Doing Business  
Thomas E. Terrell Jr., Smith Moore Leatherwood, L.L.P.  
This session will provide participants with background regarding recent North Carolina legislation authorizing the use of “development agreements” as a tool for “locking in” regulatory requirements for large-scale development projects and negotiating infrastructure improvements. The presenter will draw on case studies and experiences in a variety of settings involving representation of developers, negotiations with water and sewer authorities and municipal representation in complex deals.

Domestic Violence: Practical Skills and a View from the Bench (2 of 2)  
Beth S. Posner, Managing Attorney, Legal Aid of North Carolina and Visiting Assistant Clinical Professor, UNC School of Law; Beverly A. Scarlett, District Court Judge, District 15B, Orange and Chatham County  
“Domestic Violence: Practical Skills and a View from the Bench” is a two-hour course that begins in Session 3 and ends with Session 4. Participants should also attend Sessions 3-4. Please see the course description in Session 3 for more information.

Expert Witnesses from the Expert’s Point of View  
John M. Conley, William Rand Kenan Jr. Professor, UNC School of Law  
This presentation will focus on the practicalities of expert testimony from the expert’s point of view. What does an expert want and need from his own lawyer? What kinds of presentation are most and least effective? What are effective and ineffective techniques for deposing and cross-examining an adverse expert?

Foreign and International Legal Research on the Web  
Jim Shenvood, Reference/Foreign and International Law Librarian, Katharine R. Everett Law Library, UNC School of Law  
This session will consider the best ways to access free foreign and international law resources on the Internet, with particular attention paid to European Union and United Nations information.

Identity Theft: New Trends to Protect You and Your Clients  
Caroline Farmer, Deputy Director, North Carolina State Attorney General’s Office  
Identity theft is still the fastest growing white-collar crime in the nation. Approximately half a million North Carolinians have their information placed at risk through a security breach each year. This session will consider new legislation that demands more of businesses and changes the way state government looks at private information.

Reexamining the Foreign Corrupt Practices Act and Its Implications for American Corporations  
Saule T. Omarova, Assistant Professor of Law, UNC School of Law  
This session will provide an introduction and reexamination to the Foreign Corrupt Practices Act and the ways in which American businesses doing business abroad may be affected by its operation in today's economic climate.

Settling With Caesar  
Fred G. Morrison Jr., Senior Administrative Law Judge, North Carolina Office of Administrative Hearings  
This session will explore the various dispute resolution procedures available to parties involved in contested case hearings before the North Carolina Office of Administrative Hearings. Pertinent statutes and rules will be covered. Participants will learn which procedure would be most beneficial for their particular case. The presenter is both a judge and certified mediator who has been with OAH since it began in 1986.

Taxing the Fan Who Catches the Ball? How the 1998 Baseball Season Triggered a Tax Controversy  
Patricia Bryan, Professor of Law, UNC School of Law  
This presentation will look back at the 1998 baseball season and its historic homerun contest from a tax perspective. The tax issues that were debated then have continued to arise in widely-publicized contexts (such as “Extreme Makeover” and other reality shows) and this session will consider the relevant tax laws, as well as the problems of interpreting and enforcing those rules.
FRIDAY
SESSION FIVE
1:30 p.m. - 2:30 p.m.

Anatomy of a Wrongful Conviction: The Dwayne Dail Case (1 of 2)
Christine Mumma, Executive Director, The NC Center on Actual Innocence
Dwayne Dail and his attorney from the NC Center on Actual Innocence, Christine Mumma, will discuss the details of his case, the eighteen and half years he was in prison and life after prison. Mumma will also provide an update on the national innocence movement and reforms specific to North Carolina.

“Anatomy of a Wrongful Conviction” is a two-hour course that begins in Session 5 and ends with Session 6. Participants should also attend Sessions 6-1.

Computer Crime Law
Joseph E. Kennedy, Associate Professor of Law, UNC School of Law
A famous bank robber was once asked why he robbed banks. He replied, “Because that is where the money is.” Today computers are “where the money is.” Computer crime law is a growing slice of the criminal justice pie. This session will cover the issues of substantive criminal law, criminal procedure, privacy and jurisdiction that constitute the field of computer crime law. (This session is a repeat from Festival 2008)

Employment Litigation in the Fourth Circuit: Current Issues and Trends
Where does the Fourth Circuit stand today on key issues in discrimination, harassment and other common employment cases? Join us for a session on lessons learned, quotable quotes and what the court’s 2008 decisions mean for your next summary judgment motion.

Free North Carolina Legal Information on the Web
Margaret F. Hall, Reference Librarian and Clinical Assistant Professor of Law; Katherine R. Everett Law Library, UNC School of Law; Nick Sexton, Reference Librarian and Clinical Assistant Professor of Law, Katherine R. Everett Law Library, UNC School of Law
This session will focus on legal research using the Web to find free North Carolina cases, statutes, regulations, court rules, forms and briefs (Designed for the beginner-to-moderate internet user).

Raising the Age of Juvenile Court Jurisdiction in North Carolina
Tamar R. Bickhead, Assistant Professor of Law, UNC School of Law
Should the upper age of juvenile court jurisdiction in North Carolina be raised from 16 to 18? How might raising the age affect the approximately 26,000 16 and 17 year olds who are convicted each year in the state’s adult criminal courts? This session reviews the arguments on both sides, examines the history of the raise-the-age movement in North Carolina over the past ninety years and suggests several likely causes for the state’s continued reluctance to break with the status quo.

The ABCs of Immigration Law: A Primer
Alice S. Glover, Alice S. Glover, PLLC and Adjunct Professor, UNC School of Law and NCCU School of Law
This session will provide a brief overview of immigration law, geared to attorneys who do not practice in that area. Topics covered include non-immigrant visas; family-based and employment-based immigrant visas; immigration quota system; how criminal law and family law affect immigration.

The Ethics of Making Money (PR)
Bobbi Jo Boyd, Clinical Professor of Law and Interim Director of Legal Writing, Writing and Learning Resources Center, UNC School of Law
How do lawyers make their money? This session will explore the ethical limitations of collecting legal fees, whether those fees are billed by the hour, at a flat rate, or on contingency. During recent months, the North Carolina State Bar has issued several ethics opinions addressing legal fees. Join us for an update on the ethics of making money.

Understanding the Financial Crisis: The Basics
Lissa L. Broome, WakeForest Professor of Banking Law and Director of the Center for Banking and Finance, UNC School of Law; Thomas Lee Hazen, Cary C. Bishaner Distinguished Professor of Law, UNC School of Law; Melissa B. Jacoby, George R. Ward Professor of Law, UNC School of Law; Saule T. Omarova, Assistant Professor of Law, UNC School of Law
This presentation will explore at a basic level the causes of our current financial crisis and the operation of many of the financial instruments that played a role in it.

Water, Water (Not Quite) Everywhere: Regulation and Permitting of Private Water and Sewer Systems
Carolyn Bachl, Kilpatrick Stockton, L.L.P.; M. Gray Styers Jr., Blanchard, Miller, Lewis & Styers, P.A.
This session will provide an overview of the policies and the environmental and utilities regulations issues involved in wastewater treatment options for development of golf courses, retirement and resort communities and other large developments where no municipal water or sewer systems are available.
FRIDAY
SESSION SIX
2:40 p.m. - 3:40 p.m.

Anatomy of a Wrongful Conviction: The Dwayne Dail Case (2 of 2)
Christine Mumma, Executive Director, The NC Center on Actual Innocence
“Anatomy of a Wrongful Conviction” is a two-hour course that begins in Session 5 and ends with Session 6. Participants should also attend Sessions 5-4. Please see the course description in Session 5 for more information.

A Malthusian Analysis of the So-Called Dynasty Trust
William J. Turnier, W.P. Mangum Professor of Law, UNC School of Law
The federal transfer tax allows individuals to transfer a limited amount of assets to a trust that will be forever free of estate and generation skipping transfer taxes. In recent years, a number of states including North Carolina have repealed their rule against perpetuities to accommodate estate plans that employ trusts that are designed to avoid the above taxes—so-called “dynasty trusts.” This session will explore the practical limits that are likely to prevent most such trusts from living up to the promises of the promoters of such trusts.

Juvenile Justice Dumping
Barbara Fedders, Clinical Assistant Professor, UNC School of Law
What happens when kids drift from the child welfare system into the juvenile justice system? This session will explore theoretical issues and offer child welfare and juvenile delinquency lawyers the opportunity to collaborate on shared strategies.

Opening Statement, Closing Argument and Jury Persuasion: Lessons from the O.J. Simpson Case
Joseph E. Kennedy, Associate Professor of Law, UNC School of Law
What is the best way to persuade jurors during Opening Statement and Closing Argument? It has been almost fifteen years since the O.J. Simpson case divided and captivated America. This program uses clips from the criminal trial of O.J. Simpson to illustrate both good and bad techniques of juror persuasion during openings and closings.

Substance Abuse and Mental Illness: Lessons for Lawyers
Peter Barborka, Adjunct Associate Professor, UNC Department of Psychiatry; Eric B. Ellrodt, Assistant Professor, UNC Department of Psychiatry, Forensic Psychiatry Program & Clinic, UNC-Chapel Hill; Sally C. Johnson, Clinical Professor, UNC Department of Psychiatry, Forensic Psychiatry Program & Clinic; Alyson R. Kuroki-Mazzei, Clinical Assistant Professor of Psychiatry, UNC Department of Psychiatry
This presentation will provide an overview of mental health issues and problems frequently encountered in the practice of law. It will address these issues as they apply to the client population and to the legal profession itself, look at their impact on the attorney-client relationship and focus on opportunities for early identification and intervention.

The Emerging Dimensions of the New Confrontation Doctrine
Robert P. Mosteller, Harry R. Chadwick Sr. Professor of Law, Duke and Visiting Professor of Law, UNC School of Law
In 2004, the U.S. Supreme Court created a radically different theoretical approach to confrontation as applied to hearsay in Crawford v. Washington under the “testimonial statement” doctrine. In the ensuing years, the Court has decided two more major Confrontation Clause cases and has before yet another case this term. This program examines the emerging dimensions of this new confrontation right.

The Use and Development of Precedent in Arbitration
W. Mark C. Weidemaier, Assistant Professor of Law, UNC School of Law
Traditionally, arbitration has been viewed as a system of ad-hoc decisions making in which arbitrators do not apply, much less create, precedent. This session will present new empirical evidence highlighting the conditions under which arbitration precedent may develop and will discuss whether judicial review standards are appropriate in light of the possibility of arbitral “law-making.”

Understanding the Financial Crisis: The Government’s Response
Lissa L. Broome, Wachovia Professor of Banking Law and Director of the Center for Banking and Finance, UNC School of Law; Thomas Lee Hazen, Gary C. Boshamer Distinguished Professor of Law, UNC School of Law; Melissa B. Jacoby, George R. Ward Professor of Law, UNC School of Law; Saule T. Omarova, Assistant Professor of Law, UNC School of Law
This program will discuss the various actions taken by the Federal Reserve Board, the Treasury, Congress, the SEC and the federal banking regulators in response to our financial crisis. For a basic discussion of the causes of the crisis, please attend Session Five.

What One Should Know About Reducing Risk of Heart Attack
Ross J. Simpson Jr., Professor of Medicine and Director, UNC Cardiac Prevention Clinic
Simpson, a cardiologist on the faculty of the UNC School of Medicine, will discuss trends in research and medical practice relating to heart health. (Back by popular demand, this session is a repeat from 2008, but does not receive CLE credit in NC)
FRIDAY SESSION SEVEN
3:50 p.m. - 4:50 p.m.

Classical Literature for 21st Century Lawyers
Martin H. Brinkley, Smith, Anderson, Blount, Dorsett, Mitchell & Jernigan, L.L.P.
This session, co-sponsored by the Center for Law and the Humanities, will offer reflections on two foundational works of Greek and Roman literature and suggest why they are apt reading for modern lawyers. The focus will be on Homer's Odyssey and Tacitus's Annals. *(This session does not receive CLE credit in NC)*

Constitutional Tales: North Carolina’s Education Constitution Part I
Anne McColl, Associate Professor, UNC Charlotte College of Education and Adjunct Associate Professor, UNC School of Government
In the midst of extreme racism, poverty and political turmoil, North Carolina created one of the best state constitutional rights to education in the country. Many of these provisions in the 1868 North Carolina Constitution continue in our current constitution and establish education rights and governance for public schools. This session will consider the education provisions included in the declaration of rights and those creating a system of public schools.

F. Lee Liebolt Jr., Attorney, New York, New York; Commentary by Thomas Lee Hazen, Cary C. Boshamer Distinguished Professor of Law, UNC School of Law
A review of current securities law issues at the federal and state level in raising capital for small business, including the latest developments with the Security and Exchange Commission’s Regulation D and recent court decisions interpreting the National Securities Markets Improvement Act of 1996.

Lawyering Across Difference (1 of 2)
Winston B. Crisp, Assistant Chancellor for Student Affairs, UNC-Chapel Hill; Mark Dorosin, Senior Attorney, UNC Center for Civil Rights; Sylvia K. Novinsky, Assistant Dean for Public Service Programs, UNC School of Law; Judith Welch Wegner, Burton Craige Professor of Law, UNC School of Law
North Carolina is becoming increasingly diverse and will only become more so in coming years according to the United States Census Bureau. This session will provide a theoretical framework for reflection on “lawyering across difference” as well as an opportunity for practice with and discussion of scenarios that illustrate common situations in which lawyers must understand and negotiate cross-cultural dilemmas.

“Lawyering Across Difference” is a two-hour course that begins in Session 7 and ends with Session 8. Participants should also attend Sessions 8-10.

International Monetary Fund as a Legal Domain
Adam Feibelman, Associate Professor of Law, UNC School of Law
The session will provide an overview of key features of the International Monetary Fund (IMF). This presentation will focus on the IMF’s organizational structure, internal governance and jurisdiction. It will also highlight a number of hotly debated aspects of the IMF’s activities – e.g., conditions placed upon countries that use its facilities and the fund’s approach to capital controls imposed by member states – and connect these topics to legal issues of governance and jurisdiction.

Negotiating a Legal Negotiation
Joseph E. Kennedy, Associate Professor of Law, UNC School of Law
This session will introduce the art and science of legal negotiation. Combining lecture, video clips and short participatory exercises that require no advance preparation, this program will explore the basic differences between a competitive and collaborative approach to negotiation and discuss the most common hardball negotiation tactics in use.

North Carolina’s Campaign against Predatory Lending
Philip A. Lehman, Assistant Attorney General, Consumer Protection Division, North Carolina Department of Justice
North Carolina is viewed as a national leader in fighting unfair lending practices, including payday lending and predatory mortgage lending. This presentation will survey consumer credit regulation and enforcement from 1999 to the present.

Parenthood in Today’s World: A Look at Existing and Emerging Legal Theories
Sharon A. Thompson, Sharon Thompson Law Group
This session will consider the implications of assisted reproduction procedures for diverse families (including single individuals, infertile couples and same-sex couples) who are considering new options for biological parenthood. This program will examine how our legal system currently determines legal parenthood, who is left out under existing law, whether change is needed and how new legal theories attempt to address the rights of parents and how the best interests of children are assessed in disputes arising with these new family creations.

Post-Traumatic Stress Disorder: Overview and Update
Karen J. Guzack, Assistant Professor, UNC Department of Psychiatry and Research Fellow, Cecil G. Sheps Center for Health Services Research; Eric B. Elbogen, Assistant Professor, UNC Department of Psychiatry, Forensic Psychiatry Program & Clinic; Alyson R. Kuroski-Mazzei, Clinical Assistant Professor of Psychiatry, UNC Department of Psychiatry
The issue of post-traumatic stress disorder arises frequently in a variety of legal contexts including criminal, domestic and administrative law. This session will review the history, diagnosis, assessment and treatment of post-traumatic stress disorder as well as touching on current research.
FRIDAY
SESSION EIGHT
5:00 p.m. - 6:00 p.m.

Constitutional Tales: North Carolina’s Education Constitution Part II
Anne McColll, Associate Professor, UNC Charlotte College of Education and Adjunct Associate Professor, UNC School of Government
In the midst of extreme racism, poverty and political turmoil, North Carolina created one of the best state constitutional rights to education in the country. This session will consider constitutional provisions regarding equality of opportunity and higher education.

Emerging Issues in the Business of Healthcare
Carolyn Lloyd Coward, Van Winkle, Back, Wall, Starnes & Davis, P.A.
This session will provide an overview of state and federal case law, statutes and regulations that had the greatest impact on physician practices, hospitals and other healthcare providers in 2008. It will also explore issues raised by representation of an acute-care hospital decertified by Medicare. Both lawyers who practice healthcare law and those whose practice includes, but not exclusively, healthcare clients will find the program of interest.

Energy Management 101: Rethinking Stress Management (SA)
Lisa M. Lukasik, Clinical Assistant Professor and Interim Deputy Director, Writing and Learning Resources Center, UNC School of Law; Glenn Martin, UNC Counseling and Wellness Center
This session will help participants understand the sources of stress, its biological effects and the means through which stress can be relieved with deliberate choices and actions. It will also consider how to eliminate procrastination and cope with catastrophization.

Lawyering Across Difference (2 of 2)
Winston B. Crisp, Assistant Vice Chancellor for Student Affairs, UNC-Chapel Hill; Mark Dorosin, Senior Attorney, UNC Center for Civil Rights; Sylvia K. Novinsky, Assistant Dean for Public Service Programs, UNC School of Law; Judith Welch Wegner, Burton Craige Professor of Law, UNC School of Law
“Lawyering Across Difference” is a two-hour course that begins in Session 7 and ends with Session 8. Participants should also attend Sessions 7-5. Please see the course description in Session 7 for more information.

On Abolishing the Insanity Defense
Michael L. Corrado, Arch T. Allen Distinguished Professor of Law and Professor of Philosophy, UNC School of Law
The insanity defense has come under attack at different times, for different reasons. In this session, the presenter will explore recent arguments for abolishing the defense.

Music and Your Business: The Top 10 Things Business Owners Should Know
Coe W. Ramsey, Brooks, Pierce, McLendon, Humphrey & Leonard, L.L.P.
This session will provide an overview of copyright and other issues that arise when business owners use music that they have not composed themselves.

Real Estate Practice for Beginners: Protecting Consumers in Challenging Times
C. Thomas Steele Jr., Wishart, Norris, Henninger & Pittman, P.A.
This session will provide an overview of legal, ethical and practical issues raised in representing residential homebuyers and sellers in the current real estate market. The presenter will provide an overview of legal and practical considerations related to title inspection and mortgage lending, as well as ethical obligations implicated in real estate practice.

Technology in the Courtroom: Improving Your Effectiveness
William Faison, Faison & Gillespie and Representative, North Carolina House District 50
This updated session will feature demonstrations and a discussion of innovative techniques that can significantly improve presentation of cases in medical malpractice and other trial practice areas.

Foundations of the International Tax System
This session will provide an overview of the international tax system for attorneys who are not tax experts.
Veterans Legal Assistance Symposium

This is the second year in which the Festival is proud to offer sessions designed to address problems that may face “wounded warriors” and their families, as well as others. The program has been developed in cooperation with the North Carolina State Bar’s Standing Committee on Legal Assistance for Military Personnel and the UNC School of Law’s Pro Bono Program.

Environmental Law Symposium

The New Political Agenda for Environmental Law

Sponsored by the UNC Environmental Law Project

With a new president and new governor taking office, this year’s symposium explores the likely political agenda for environmentalism and environmental law, both federal and state. This year’s symposium will be co-taught by professors Donald Hornstein, Maria Savasta-Kennedy and Victor Flatt. As always, the symposium is designed as four self-contained sessions that can be taken individually or together in any combination.

FRIDAY

SESSION SEVEN
3:50 p.m. - 4:50 p.m.
Post-Traumatic Stress Disorder: Overview and Update

SATURDAY

SESSION ONE
8:00 a.m. - 9:00 a.m.
Bankruptcy and Mental Health (PR)

SESSION TWO
9:10 a.m. - 10:10 a.m.
Special Needs Trusts in North Carolina

SESSION FOUR
11:30 a.m. - 12:30 p.m.
Introduction to Guardianship in North Carolina

SESSION ONE
(8:00 a.m. - 9:00 a.m.)
Political Developments and the 2008 Election

SESSION TWO
(9:10 a.m. - 10:10 a.m.)
Midnight Madness – The Environmental Law of Presidential Transitions

SESSION THREE
(10:20 a.m. - 11:20 a.m.)
The New North Carolina Environmental Agenda

SESSION FOUR
(11:30 a.m. - 12:30 p.m.)
Global Warming and the Year of Reckoning
SATURDAY
SESSION ONE
8:00 a.m. - 9:00 a.m.

Bankruptcy and Mental Health
A. Thomas Small, United States Bankruptcy Judge for the Eastern District of North Carolina; Jay C. Williams, Visiting Clinical Professor of Social Work, UNC School of Social Work and Clinical Associate Professor of Psychiatry, UNC Department of Psychiatry

This session, presented by a bankruptcy judge and an expert in mental health, will consider the ways in which mental health issues may have a bearing on bankruptcy proceedings. (This session does not qualify for PR credit in NC.)

Environmental I: Political Developments and the 2008 Presidential Election
Victor Flatt, Taft Professor of Environmental Law, UNC School of Law; Donald T. Horne, Visiting Professor of Law, UNC School of Law; Maria Savasta-Kennedy, Clinical Professor of Law and Director, Externship Program, UNC School of Law

In addition to the environmental and energy political agenda of the new president (and any known executive branch appointees/nominees), this session will explore likely legislative developments of the 111th United States Congress.

Health and Safety in the Workplace: Keeping Employees Safe
Valerie A. Johnson, Patterson Harkavy, L.L.P. and Adjunct Professor of Law, UNC School of Law

This session will address key employee safety issues raised under both state and federal law.

Intellectual Property Basics
David L. Harrison, Associate Vice President for Legal Affairs, The University of North Carolina General Administration

The once highly specialized practice of intellectual property law has now become part of almost every lawyer's practice. In this session, the presenter will discuss the basics of patents, copyrights, trademarks and associated intellectual property law for lawyers who are not IP specialists.

More Sticks and Stones: An Update on Key Developments in Construction Law
R. Harper Heckman, Attorney and Adjunct Professor of Law, UNC School of Law

This session will examine recent trends and developments in construction law and their effect on the rights and obligations of owners, contractors, subcontractors and design professionals. Topics to be discussed include project delivery systems, contract documents, price escalation, damages, limitation of liability clauses, safety and liens. No prior sessions or construction law background is required.

The Rising Generation of Professionals: What Lawyers Need to Know
John B. Kasprzak, Director of Student Activities, UNC School of Law; Kelly Podger Smith, Assistant Dean for Student Services, UNC School of Law; Michael J. States, Assistant Dean for Admissions, UNC School of Law

Important generational shifts are evident in college and law school students and these shifts will soon be affecting the way that beginning lawyers and clients function. Those charged with supervising or representing members of the rising generation need to be aware of key issues ranging from disability accommodations to professional norms. This session will tap feature three lawyers responsible for related issues facing law schools.

The State of State Banking
Joseph A. Smith Jr., North Carolina Commissioner of Banks

This session will discuss the role of state chartered banks in the dual banking system; the regulation, supervision and examination of state chartered banks in North Carolina; and current state bank performance metrics.

(PR) = Professional Responsibility Credit  (SA) = Substance Abuse Credit
Common Mistakes and Oversights in Drafting and Reviewing LLC Operating Agreements
Warren P. Kean, K&L Gates
This session will provide business and general practitioners with insights about drafting limited liability corporation operating agreements. The presenter, who is the chair of the Ad Hoc LLC Legislation Committee of the North Carolina Bar Association, also will discuss legislation that committee has proposed be adopted by the North Carolina General Assembly to amend the North Carolina Limited Liability Company Act. (Note: This session has been moved to Friday, Session 1-10)

Environmental II: Midnight Madness —The Environmental Law of Presidential Transitions
Victor Flatt, Taft Professor of Environmental Law, UNC School of Law; Donald T. Hornstein, Aubrey L. Brooks Professor of Law, UNC School of Law; Maria Savasta-Kennedy, Clinical Professor of Law and Director, Externship Program, UNC School of Law
It has become increasingly common for outgoing presidents, both Republican and Democratic, to engage in last-minute environmental decision making, sometimes casting the outgoing Administration’s shadow well into the incoming Administration’s first term. This Session will explore evidence of this phenomenon in 2008-2009 as well as discuss its constitutionality generally.

Ethics and Professionalism: A View from the Bench (PR)
R. Allen Baddour Jr., Resident Superior Court Judge, Orange and Chatham Counties; Ripley E. Rand, Special Superior Court Judge, Wake County
This session will explore ethical considerations inside the courtroom, including candor with the court, ex parte communications with judges and other issues, as well as professionalism issues as they relate to opposing counsel, judges and witnesses.

Foreclosure Prevention via Recent State and Federal Legislation
Mallam J. Maynard, Executive Director, Financial Protection Law Center
This session will present an overview of the opportunities presented by the flurry of recent state and federal legislation for prelitigation resolution of disputes that might otherwise lead to foreclosure. The session will also provide an overview of claims that might arise from violations of the requirements of the new legislation for purposes of defending clients against foreclosure proceedings.

Fueling Fair Practices
John W. Van Alst, Staff Attorney, National Consumer Law Center
In many areas of North Carolina, a car is a necessity, but many hurdles keep low-income families from getting and keeping a car. This session will examine current efforts in several states to improve public policy related to automobile sales and finance, in particular policies that protect consumers in other states and jurisdictions that could also protect North Carolinians.

Liability for Sexual Assault by Student-Athletes
Barbara J. Osborne, Associate Professor, UNC Department of Exercise and Sport Science
This presentation examines whether a university has liability for the sexual assault and/or rape of an individual by a student-athlete or recruit. It will consider recent civil lawsuits against major universities that arose when men accused of sexual assault were not convicted on criminal charges. The extension of Title IX protection in this area and implications for educational programs will be discussed.

Special Needs Trusts in North Carolina
Brent W. Stephens, Craige Brawley Lipfert & Walker, L.L.P
This session will provide an overview of special needs trusts as used in estate planning and other settings. The presentation will consider how such trusts can be used to preserve assets for the elderly and protect those with disabilities (including both family members with developmental disabilities and “wounded warriors” who have received injuries during military service).
SaturdaY
Session Three
10:20 a.m. - 11:20 a.m.

Developing and Presenting a Land Use Case
Matthew A. Nichols, Shanklin & Nichols, L.L.P.; Kenneth A. Shanklin, Shanklin & Nichols, L.L.P.; Judith Welch Wagen, Burton Craig Professor of Law, UNC School of Law

This session will provide pragmatic insights about representing real estate developers and seeking approval of development proposals before planning boards and city councils in North Carolina. The program will feature role-plays involving meetings with clients and presentations before citizen boards, as well as tips on strategies for developing a record to support subsequent judicial appeals.

Environmental III: The New North Carolina Environmental Agenda
Victor Flatt, Professor of Environmental Law, UNC School of Law; Donald T. Horstein, Aubrey L. Brooks Professor of Law, UNC School of Law; Maria Savasta-Kennedy, Clinical Professor of Law and Director, Externship Program, UNC School of Law

This Session will explore expected environmental action by the General Assembly as well as by the incoming new governor. Topics can include energy, coastal development, climate change, air pollution and more.

Light and Life at the End of the Tunnel: Recovering from Debilitating Mental Conditions or Addictions (SA)
Stacey A. Phipps, Attorney at Law; John L. Sarrett, Harris, Winfield, Sarrett & Hodges, L.L.P.

An estimated one-third of attorneys suffer from depression and/or from alcohol or drug addiction, a rate two to three times higher than the general population. The implications for lawyers, loved ones, our clients and the profession are obvious. Two members of the bar who have successfully dealt with these afflictions will share their stories and identify resources for obtaining confidential intervention and treatment for these conditions.

National Security Law Update
Scott L. Silliman, Professor of the Practice of Law and Executive Director, Center on Law, Ethics and National Security, Duke and Adjunct Professor of Law, UNC School of Law

This session will focus on a number of current national security topics, including, among other things, issues pertaining to the detention, interrogation and prosecution of alleged terrorists. The most current cases and legislation regarding these topics will be analyzed and discussed.

Overview of Federal and State Consumer Credit Law
Jeffrey P. Taft, Mayer Brown, L.L.P.

This program will provide an overview of state and federal consumer credit laws, state-licensing requirements and identifying potential issues for attorneys. It will highlight the federal consumer credit laws, such as the Truth in Lending Act, Equal Credit Opportunity Act, Fair Credit Reporting Act and the Fair Debt Collection Practices Act, their specific requirements and the types of transactions covered.

Recent Developments in North Carolina Animal Law
William Reppy Jr., Distinguished Professor of Law, Duke

This session will examine recent developments including regulation of euthanasia; disposition of dogs and cats at animal shelters; constitutional problems with the criminal animal cruelty statute; use of the state’s unique civil remedies statute that gives private citizens standing to enforce by civil injunction the anti-cruelty provisions; and testamentary trusts for pets.

The Subconscious As Evidence: Precognitive Facial Expression, FMRI and the Nature of Memory
Richard E. Myers II, Assistant Professor of Law, UNC School of Law

This session will consider advances in the psychology of the subconscious and consider how those advances may affect trial practice in years to come. It will consider functional magnetic resonance imaging and its possibilities as a lie detector; the science of micro expressions as used by law enforcement; and the science of memory formation.
Convicting the Innocence, Reasonable Doubt and the Death Penalty
Arnold H. Loewy, George Killam Professor of Criminal Law, Texas Tech University School of Law and Professor Emeritus, UNC School of Law
This session will consider three profound questions: why we convict the innocent, how we can help juries take reasonable doubt seriously and how the death penalty fits into a world where the innocent are sometimes convicted.

Environmental IV: Global Warming and the Year of Reckoning
Victor Flatt, Taft Professor of Environmental Law, UNC School of Law; Donald T. Hornstein, Aubrey L. Brooks Professor of Law, UNC School of Law; Maria Savasta-Kennedy, Clinical Professor of Law and Director, Externship Program, UNC School of Law
This session will explore the likelihood of congressional action on climate change, action that both presidential candidates have generally endorsed. This session will also explore the operation of regional greenhouse-gas trading, the operation of international carbon financing mechanisms and prospects for post-Kyoto international negotiations.

Hot Topics Before the North Carolina General Assembly
Amy Yonowitz Bason, General Counsel, North Carolina State Senate Majority Leader’s Office; Elizabeth Barnes Brassew, General Counsel, North Carolina State Senate President Pro Tempore’s Office; Robin Johnson, Counsel to the Speaker of the House, North Carolina House of Representatives
This session will cover budget and substantive legislation from the 2008 short session and likely “hot topics” for the long legislative session beginning in January 2009. The presenters will draw upon insights from their roles as counsel to the Speaker of the North Carolina House of Representatives, Counsel to the President Pro Tempore of the North Carolina Senate and Counsel to the North Carolina Senate Majority Leader.

Introduction to Guardianship in North Carolina
David T. Watters, Law Offices of David Watters, PLLC and Colonel, USMCR
This session will focus on legal and practical considerations governing establishment of limited or full guardianships in North Carolina. In addition to basics, the session will focus in particular on common issues that arise in establishing guardianships for elderly individuals and on the potential benefits for guardianships for “wounded warriors” injured in the course of military service.

Property and Progress: Landscape Art and Property Law
Alfred L. Brophy, Reef C. Ivey II Professor of Law, UNC School of Law
American landscape art reveals our country’s fascination with the development of property. This session explores the ways that landscape art illustrates the themes of progress through development of land and its connections to property law in American history.

What the Non-Bankruptcy Lawyer Should Know About Bankruptcy
William E. Brewer Jr., The Brewer Law Firm
This session will provide basic information about bankruptcy that the family lawyer, real estate lawyer, tax lawyer, personal injury lawyer and general practitioner should know.
Carolyn Bachl

R. Allen Baddour Jr.
Resident Superior Court Judge, Orange and Chatham Counties. B.A., 1993; J.D., 1997, UNC-Chapel Hill.

Peter Barboriak
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Patricia Bryan

John M. Conley

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Barbara J. Osborne  

Mark E. Pearce  

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