

CityBar Center for CLE

FEDERAL SENTENCING AFTER *BOOKER/FANFAN*

Thursday, February 24, 2005 • 6:00 - 9:00 p.m.

The Supreme Court threw federal sentencing into disarray last year when it struck down a Washington State sentencing guidelines scheme similar to the United States Sentencing Guidelines. No one knew whether the reasoning in that case, *Blakely v. Washington*, would apply to key elements of the federal sentencing guidelines. Under tremendous pressure from the lower courts for a speedy decision -- and with unresolved federal sentences piling up in the meantime -- the justices heard argument on the issue on the first day of the new term in *U.S. v. Booker* and *U.S. v. Fanfan*.

This CLE presents the ongoing fallout from the *Blakely* decision and its progeny. A distinguished panel drawn from the judiciary, practitioners and policymakers will examine the Constitutional issues raised by the sentencing guidelines, potential congressional action and the future of federal sentences in the world after *Booker* and *Fanfan*.

PROGRAM CHAIR

Zachary Margulis-Ohnuma
Law Office of Zachary Margulis-Ohnuma

MODERATOR

Honorable Jed S. Rakoff
U.S. District Court (S.D.N.Y.)

FACULTY

Daniel R. Alonso
Chief, Criminal Division
U.S. Attorney's Office (EDNY)

Jennifer L. Brown
Staff Attorney
Legal Aid Society
Federal Defender Division

Honorable John S. Martin, Jr.
Of Counsel, Debevoise & Plimpton
Former U.S. District Court Judge (S.D.N.Y.)

John R. Steer
Vice Chair
U.S. Sentencing Commission

Professor Ian Weinstein
Fordham University School of Law

SPONSORING ASSOCIATION COMMITTEES: Criminal Law, Marjorie J. Pearce, Chair; Criminal Advocacy, Daniel R. Alonso, Chair; & Criminal Courts, John L. Pollok, Chair

Agenda

- 6:00 - 6:10 **INTRODUCTION**
Zachary Margulis-Ohnuma
- 6:10 - 6:20 **OVERVIEW**
Honorable Jed S. Rakoff
- 6:20 - 6:30 **PRESENTATION OF HYPOTHETICAL**
- 6:30 - 6:45 **BACKGROUND ON THE ROAD TO BOOKER/FANFAN**
• Old Law Sentencing & Review
• The United States Sentencing Guidelines and Prior Challenges to them (Mistretta)
• Appellate Review of Guideline Sentences (PROTECT)
- 6:45 - 7:00 **UNITED STATES V. BOOKER**
• Overview of the two *Booker* holdings
• The Stevens/Breyer debate over the remedy: requiring jury findings in sentencing v. rescission of mandatory aspects of the Sentencing Reform Act
- 7:00 - 7:45 **THE EFFECT OF BOOKER/FANFAN ON FEDERAL CRIMINAL PROCEDURE**
• Implementation of Booker in the District Courts: New sentencing procedures and the ongoing relevance of Guidelines calculations
• Impact on Plea Negotiations and Charging Decisions
• Judge Shopping and regional disparities
- 7:45 - 8:00 **BREAK**
- 8:00 - 8:40 **APPELLATE REVIEW OF FEDERAL SENTENCES AFTER BOOKER: THE NEW "REASONABLENESS" STANDARD**
- 8:40 - 9:00 **RESPONSES TO BOOKER/FANFAN**
• Continued Role of Sentencing Commission
• Continued Role of the Probations Department's Investigation and Report
• Congressional Responses

CLE Credit

3 credits in professional practice/practice management.
This program provides transitional credit for newly admitted attorneys.



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Live Program (includes materials):

- \$185 Member \$285 Non-member

Walk in Registration (includes materials):

- \$210 Member \$310 Non-member

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- \$425 Member \$505 Non-member

Materials Only (no CLE credit):

- \$95 Member \$125 Non-member

WEB

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The Association of The Bar

42 West 44th Street, New York, NY 10036

To Register: call (212) 382-6663 or (212) 382-6662; fax (212) 869-4451; mail registration form to the CityBar Center for CLE, 42 West 44th Street, New York, NY 10036 or register online at www.abcny.org.

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