

The 2012

Minnesota Legal Ethics Summit II

Answers to the Toughest Ethical Questions
Confronting Minnesota Attorneys Today

The Minnesota Legal Ethics Summit which received rave reviews one year ago, returns with even more gurus and more answers to today's most challenging ethical issues facing lawyers and judges. Discussions will include: lawyers who play hardball; trouble in your firm and duties to investigate, mitigate and report; conflicts and waivers; and the impact of social media and electronic communications on your ethics obligations. Plus, an analysis of the latest Minnesota Lawyers Board and ABA opinions. This program will work through hypotheticals and actual cases and will engage participants from beginning to end.

Featuring Minnesota's
Foremost Authorities
on Legal Ethics:

Berg

Cole

Cooperstein

Gernander

Jorgensen

Lundberg

Sasseville

Wernz



Minnesota State Bar Association
Continuing Legal Education
Your State Bar at Work for You

Monday, June 18, 2012

Minnesota CLE Conference Center
Seventh Street & Nicollet Mall
Third Floor City Center, Minneapolis

Video replay details on back.

Invaluable Insights • Practical

Whether you practice solo or are the ethics partner in a large firm responsible for matters of ethics administration, whether you represent lawyers in disciplinary proceedings, whether you are a transactional lawyer or are in court on a regular basis, this may be the most valuable ethics seminar you've ever attended. You'll get access to practice resources that really answer your questions and save you time. Join your peers for an afternoon of what promises to be the most interesting and informative ethics discussion of the year.

SCHEDULE

12:30 – 1:00 p.m. REGISTRATION & CHECK-IN

1:00 – 1:30 p.m.

Two Can Play That Game

Nancy Zalusky Berg, Martin A. Cole & Eric T. Cooperstein

Some negotiation tactics walk a fine line between a clever gambit and an unethical proposal. Our panel will discuss whether lawyers may prepare draft documents for a client to present to the opposing party and when threats to file or withhold criminal charges violate ethics rules.

- End Run Around the Ex Parte Rule? ABA Formal Opinion 11-461, "Advising Clients Regarding Direct Contacts with Represented Persons"
- Threats
- "Unworthy" Clients

1:30 – 2:30 p.m.

Compromising Positions: The Twists and Turns of "Materially Limited" Conflicts

Charles E. Lundberg, David L. Sasseville & William J. Wernz

A wide variety of circumstances may "materially limit" a lawyer's ability to represent clients: representing criminal co-defendants, challenging a lawyer's own previous work product, joint representation of plaintiffs and third-party defendants, zero-sum conflicts, advice behind the scenes, and others. This session will unravel the question of whether any of these conflicts are waivable.

- *In re Coleman*, 2011 WL 222246 (Minn. 2011).
- *In re Kalla*, 2012 WL 204529 (Minn. 2012).
- "Underlying Work" Claims
 - M&A, Patent, etc.
 - *Maples v. Thomas*, ___ U.S. ___ (2012) *FN 8*, <http://www.supremecourt.gov/opinions/11pdf/10-63.pdf>.
- Waivers (Schiltz Seal of Approval, *Minn. Legal Eth. Blog* – Oct. 2011)

2:30 – 2:45 p.m. BREAK

2:45 – 3:30 p.m.

Who's Reading the Emails You Send Your Clients?

Eric T. Cooperstein & Kent Gernander

The biggest threat to the confidentiality of client e-mails comes not from the clouds but from the prying eyes of your client's employer. Two video vignettes will illustrate the questions raised by recent ABA Formal Ethics Opinions and highlight the pitfalls for the lawyer sending the e-mails and the unexpected responsibilities of the lawyer for the client who finds them.

- ABA Formal Opinion 11-459, "Duty to Protect the Confidentiality of E-Mail Communications With One's Client"
- ABA Formal Opinion 11-460, "Duty When Lawyer Receives Copies of a Third Party's E-Mail Communication With Counsel"
- (Both ABA ops. discussed in *Minn. Legal Eth. Blog* – Sept. 2011)
- Lawyers Board Opinion No. 22, "A Lawyer's Ethical Obligations Regarding Metadata"
- Social media and your ethical obligations

3:30 – 4:00 p.m.

With a Capital "T" and That Rhymes with "P" and That Stands for Partner

Martin A. Cole, Ken Jorgensen & David L. Sasseville

When a partner of a law firm engages in misconduct, the remaining partners must do more than shake their heads and change the locks. This panel will discuss partners' duties to investigate further, to mitigate the misconduct, and possibly report their fallen partner to disciplinary or criminal authorities. Plus: the inside story of cleaning up after a partner's defalcation.

- *Board of Bar Overseers v. Warren et al.* (Maine 2011)
- Does the confidentiality duty under Rule 1.6 trump the duty to report under Rule 8.3 in almost all cases?
- A Partner Gone Bad – A Painful Story

4:00 – 4:15 p.m.

Hot Topics

Charles E. Lundberg & William J. Wernz

A fast-paced review of the ethics issues making headlines and keeping ethics lawyers busy.

Take in a great elimination of bias seminar as well!

Take this opportunity to fulfill your CLE elimination of bias requirement as well, by attending **RAV v City of St. Paul – Its History and the Legacy on the 20th Anniversary** the morning of Monday, June 18. Make a day of it; hear great speakers discussing a landmark case. To register, go to: <http://www.minncle.org/seminardetail.aspx?ID=107441201>.

Solutions • Great Networking

Learn from Minnesota's Foremost Authorities on Legal Ethics!



William J. Wernz is an Of Counsel member of the Trial Department at Dorsey & Whitney LLP. He was Ethics Partner and a member of the Trial Department at Dorsey & Whitney LLP in Minneapolis 1992–2009. He practices in the areas of attorney ethics, malpractice and fiduciary law. He is the author of *Minnesota Legal Ethics* (2011), an online treatise, hosted by the Minnesota State Bar Association. From 1985 to 1992 Mr. Wernz was the Director of the Minnesota Lawyers Board. In 1998–99 he was the president of the Association of Professional Responsibility Lawyers, a nationwide group of over 200 lawyers. Mr. Wernz received the Minnesota Lawyer 2009 Outstanding Service to the Profession Award. In 1991 Mr. Wernz received the Minnesota State Bar Association Award of Excellence. In 2003 Mr. Wernz received the Minnesota State Bar Association President's Award, for his work as chair of the Task Force that proposed changes in the Rules of Professional Conduct. In 2005 Mr. Wernz received the Hennepin County Bar Association Attorney Professionalism Award. Mr. Wernz has been an adjunct professor, teaching legal ethics, at the University of Minnesota and William Mitchell College of Law. Mr. Wernz is a *summa cum laude* graduate (1977) of the University of Notre Dame law school and has a Ph.D. in Religious Studies from the University of Iowa.



David L. Sasseville is General Counsel of the 190-lawyer Minneapolis-based firm Lindquist & Vennum P.L.L.P., where he is a partner and member of the firm's Commercial Litigation Practice Group. Mr. Sasseville represents lawyers and law firms on professional responsibility and liability matters. Mr. Sasseville lectures and writes frequently on topics of professional responsibility, legal ethics, loss prevention and professional liability. He has served for the past eighteen years as Lindquist & Vennum's Ethics, Loss Prevention and Claims Partner. Mr. Sasseville served on the Minnesota Lawyers Professional Responsibility Board from 2003 to 2009; he served as chair of the Board's Rules Committee. Mr. Sasseville has been an Adjunct Professor at William Mitchell College of Law since 2000, where he co-teaches a course on Professional Responsibility with his law partner, Terrence J. Fleming. Mr. Sasseville is the Chair of the Professionalism and Professional Conduct Section of the Hennepin County Bar Association. He served for six years as a member of the Hennepin County District IV Ethics Committee. Mr. Sasseville is a member of the Association of Professional Responsibility Lawyers, the ABA Center for Professional Responsibility, and the Minnesota State Bar Association Rules of Professional Conduct Committee. He is a member of the Hennepin County, Minnesota State and American Bar Associations. Mr. Sasseville is a Fellow of the American Bar Foundation. Mr. Sasseville is admitted to practice in the state and federal courts of Minnesota and before the Eight Circuit Court of Appeals. He attended American University in Washington, D.C., and is a graduate of the University of Minnesota (B.A. American Studies), and William Mitchell College of Law (1984).



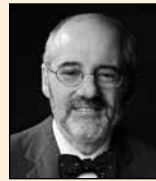
Charles E. Lundberg has been a member of Bassford Remele for more than 30 years, practicing primarily as a "lawyer's lawyer" – advising attorneys and law firms on matters involving legal malpractice, legal ethics, and other areas of the law of lawyering. He served for 12 years on the Minnesota Lawyers Professional Responsibility Board, including six years as Board Chair. He also devotes much of his time to appeals and has been recognized as one of the leading appellate attorneys in Minnesota and elected as a Fellow in the American Academy of Appellate Lawyers – an invitation-only group of outstanding lawyers whose practice focuses substantially on appeals. Mr. Lundberg has been named a Top 100 Super Lawyer, Top 10 Appellate Super Lawyer, and a Leading American Attorney and one of the Best Lawyers in America in the fields of Appellate Law and Legal Malpractice Law. He received the Minnesota State Bar Association Professional Excellence Award in 2005.



Ken Jorgensen is the Ethics Partner at Dorsey & Whitney where he advises lawyers in Dorsey's 19 offices in the U.S., Europe and Asia-Pacific. Before joining Dorsey, Ken was a trial court judge in Washington County, presiding over all types of cases including criminal, family, juvenile and civil litigation. Prior to becoming a judge, he was the Director of the Office of Lawyers Professional Responsibility. During his more than 20 years with the Director's Office he handled thousands of ethics investigations involving lawyer misconduct and created the Office's telephone advisory opinion service. Ken is an adjunct faculty member at William Mitchell, a frequent CLE lecturer and has written numerous Professional Responsibility and Legal Ethics articles. He received the Minnesota State Bar Association's Professional Excellence Award in 2006.



Kent Gernander is a general practice and trial lawyer in the Winona law firm Streater & Murphy, PA, where he advises and represents individuals and business and nonprofit entities. He has been involved in many professional organizations, including terms as President of the Minnesota State Bar Association, Chair of Minnesota Continuing Legal Education, and Chair of the Lawyers Professional Responsibility Board. He has served on advisory committees related to the Rules of Professional Conduct and the Code of Judicial Conduct. He is consulted as an expert on ethics and malpractice matters, and has written and lectured on a variety of legal topics. He is the author of Minnesota CLE's *Client Relations Formbook*, containing forms and commentary for practice management and ethical compliance.



Eric T. Cooperstein has a solo practice devoted to ethics consulting and representation, a product of his work as a former Senior Assistant Director of the Office of Lawyers Professional Responsibility, where he worked from 1995 to 2001. Eric defends lawyers against ethics complaints, provides advice and expert opinions, and represents lawyers in fee disputes and law firm break-ups. He is also a frequent writer and speaker on ethics and law practice issues. Eric is Chair of the Rules of Professional Conduct Committee for the Minnesota State Bar Association, a member of the Association of Professional Responsibility Lawyers, and served from 2007 to 2008 on the Supreme Court Advisory Committee to Review the Lawyer Discipline Process. Eric joined the executive committee of the Hennepin County Bar Association in 2010 and will serve as its President in 2013–2014.



Martin A. Cole is the Director of the Office of Lawyers Professional Responsibility and the Minnesota Client Security Board. He has been employed in the lawyer disciplinary system for over 25 years and has been Director since April 2006. He is an honors graduate of the University of Minnesota Law School, where he was an editor of the *Minnesota Law Review*. In addition to prosecuting 100s of public discipline matters and providing over 5000 telephone advisory opinions over the years, Marty has been a director at large of the National Client Protection Organization, chair of the MSBA Public Lawyers Section Ethics Committee and a member of the ABA's Advisory Commission on Lawyers' Funds for Client Protection. He is a frequent CLE speaker and author in the areas of professional responsibility and law client protection.



Nancy Zalusky Berg is a founder of Walling, Berg & Debele, P.A., a thirteen lawyer firm limiting its practice to family, juvenile and adoption law. Ms. Berg has limited her practice to family law since 1985. She is certified by the National Board of Trial Examiners as a Family Law Litigation Specialist. She is a member of the American Academy of Matrimonial Lawyers, International Academy of Matrimonial Lawyers and President of the IAML – USA Chapter. She sits on the Minnesota Lawyers Board of Professional Responsibility; she has been listed in the "Best Lawyers in America" and has been identified as one of Minnesota's "Super Lawyers" of *Law & Politics*, *Minnesota Monthly* and *Mpls-St. Paul* magazines since 1993. She has been listed as one of the top 100 lawyers in Minnesota for several years and is one of the top 40 lawyers in the Family Law practice area by *Law & Politics*.

LIVE PRESENTATION

Minneapolis – Monday, June 18, 2012

1:00 – 4:15 p.m.

Minnesota CLE Conference Center

Seventh Street & Nicollet Mall
Third Floor City Center

VIDEO REPLAYS

Schedule times may vary due to abbreviated break and lunch periods. Start times are as indicated below. Register at least one week in advance to secure your copy of the materials on the day of the seminar.

Minneapolis – 7/30/12

Minneapolis – 8/22/12

(Registration 12:30; Replay 1:00)

Minnesota CLE Conference Center
Seventh Street & Nicollet Mall
Third Floor City Center

Alexandria – 7/20/12

(Registration 8:30; Replay 9:00)

Douglas County Courthouse
305 Eighth Avenue West
Jury Assembly Room

Duluth – 9/28/12

(Registration 8:30; Replay 9:00)

Radisson Hotel Duluth—Harborview
505 West Superior Street

Saint Cloud Area – 11/2/12

(Registration 8:30; Replay 9:00)

Minnesota School of Business
1201 Second Street South, Waite Park

CREDITS

Minnesota CLE is applying to the Minnesota State Board of CLE for **3.0 ethics credits**.

NEW LAWYER SCHOLARSHIP PROGRAM

In recognition of the challenges facing lawyers entering the profession, Minnesota Continuing Legal Education has established a scholarship program for unemployed and underemployed lawyers admitted less than three years. Those wishing to apply for such assistance should contact Grant at **651-254-2111** or **gdavies@minncle.org** for details.

CANCELLATION / NO-SHOW POLICY

Paid registrants who cancel their registration at least 3 business days before the program will receive a full credit on their account; if fewer than 3 business days, a \$25 administrative fee will be deducted. The materials for this course will not be made available for sale.

ACCOMMODATION

If you have a disability and need an accommodation in order to attend, please contact Minnesota CLE as soon as possible at 2550 University Avenue West, Suite #160-S, Saint Paul, MN 55114 or call us at 651-227-8266 or 800-759-8840.

QUESTIONS

For further information, call Minnesota CLE at **651-227-8266** or **800-759-8840**. Or, visit us online at **www.minncle.org**.



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REGISTRATION / ORDER FORM

The 2012 Minnesota Legal Ethics Summit II

Monday, June 18, 2012
Minnesota CLE
Conference Center

PLEASE "✓" APPROPRIATE BOX BELOW:

LIVE:

\$195 MSBA member \$195 paralegal \$245 standard rate

VIDEO REPLAY:

\$165 MSBA member \$165 paralegal \$215 standard rate

Location _____ Date _____

NEW LAWYER DISCOUNT:
 I was first admitted to the bar after June 18, 2009, and have deducted \$60 from the registration fee.

I have a Minnesota CLE Season PassSM. Pass # _____
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Client Relations Formbook & CD-ROM by Kent Gernander

Kent Gernander has drafted 55 illustrative Forms containing

in-depth commentary on Client/Lawyer relationships and the ethics involved therein. The forms illustrate approaches and language that may be employed in common situations. The commentary addresses legal principles, including ethics rules governing client-lawyer relations. The *Formbook* is accompanied by a CD containing all 55 forms in editable files.

Please send me:

_____ copy(ies) of the **Client Relations Formbook & CD-ROM** at \$145 each.

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COST OF ITEM(S)	S & H
Single CD-ROM	\$4
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