

The 21st Annual National Institute on Health Care Fraud

May
11-13, 2011

Eden Roc
Renaissance
Miami Beach
Miami Beach, FL



Presented by
**The American Bar Association
Criminal Justice Section,
Health Law Section, and
Center for Continuing Legal Education,
and the National Association of
Medicaid Fraud Control Units
in cooperation with the
ABA Young Lawyers Division and
the Health Law Section of the
Florida Bar Association**

The 21st Annual National Institute on Health Care Fraud

May 11-13, 2011 | Eden Roc Renaissance Miami Beach | Miami Beach, FL

Don't miss this comprehensive program! To register, please call 800.285.2221 or visit www.abacle.org/programs/hcf.

Program Description

The 21st Annual National Institute on Health Care Fraud provides a rewarding educational experience for health care attorneys, regulators, prosecutors, criminal defense attorneys, and *qui tam* relators' counsel. This National Institute draws panelists, facilitators, and participants from each of these significant groups and offers unique opportunities to meet and share experiences and concerns in a non-adversarial setting.

The program planning committee is committed to creating a program that advances education, communication, professionalism, and discussion of current legal and ethical issues that arise in the health care fraud practice. These issues are addressed in panel discussions and small workshop formats designed to maximize audience participation.

For more information about this National Institute, the ABA, the ABA Criminal Justice Section, Health Law Section, Young Lawyers Division and ABA-CLE, please call ABA Member Services at 800.285.2221 or visit our Web site at www.americanbar.org.

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Barbara L. Zelner, Executive Director, *National Association of Medicaid Fraud Control Units*, Washington, DC

Program Faculty

Daniel R. Anderson

Deputy Director
*Commerical Litigation Branch
Civil Division
U.S. Department of Justice*
Washington, DC

Al Balboni

Assistant U.S. Attorney
Southern District of Texas
Houston, TX

Carol J. Bennett

Deputy Associate
General Counsel
*U.S. Department of Health
and Human Services*
Washington, DC

Joshua G. Berman

Partner
Katten Muchin Rosenman LLP
Washington, DC

Curtis Bernstein

Director of Valuation
Sinaiko Healthcare Consulting
Los Angeles, CA

John T. Boese

Of Counsel
*Fried, Frank, Harris, Shriver &
Jacobson LLP*
Washington, DC

Suzanne R. Bradley

Special Assistant
U.S. Attorney
Southern District of Texas
Houston, TX

Kim Brandt

Chief, Healthcare
Investigative Counsel
*U.S. Senate Finance
Committee, Minority Staff*
Washington, DC

Michael E. Clark

Of Counsel
Duane Morris LLP
Houston, TX

Mark Collins

President
*National Association of
Medicaid Fraud Control Units*
Lincoln, NE

Jeffrey Dickstein

Assistant U.S. Attorney
Southern District of Florida
Miami, FL

*Jonathan L. Diesenhaus

Partner
Hogan Lovells
Washington, DC

*David L. Douglass

Partner
Shook, Hardy & Bacon, LLP
Washington, DC

Laura Ellis

Senior Counsel
Office of Counsel to
the Inspector General
U.S. Department of Health
and Human Services
Washington, DC

Wifredo Ferrer

U.S. Attorney
Southern District of Florida
Miami, FL

Laurence J. Freedman

Partner
Patton Boggs LLP
Washington, DC

Charles W. Gambrell, Jr.

Director
Medicaid Fraud Control Unit,
South Carolina, Office of
Attorney General
Columbia, SC

Neil V. Getnick

Partner
Getnick & Getnick
New York, NY

Virginia A. Gibson

Partner
Hogan Lovells
Philadelphia, PA

Michael Granston

Assistant Director,
Commercial Litigation Branch
Civil Division
U.S. Department of Justice
Washington, DC

Thomas M. Greene

Partner
Greene LLP
Boston, MA

Charles Hacker

PricewaterhouseCoopers
New York, NY

Philip H. Hilder

Partner
Hilder & Associates P.C.
Houston, TX

Tracy L. Hilmer

Assistant Director
U.S. Department of Justice
Civil Division
Washington, DC

Charles H. Hobgood

Director
Medicaid Fraud Control Unit
Office of Attorney General
Raleigh, NC

Robert Homchick

Partner
Davis Wright Tremaine LLP
Seattle, WA

***Gabriel L. Imperato**

Managing Partner
Broad and Cassel
Fort Lauderdale, FL

Marcos D. Jimenez

Partner
Kasowitz, Benson, Torres &
Friedman
Miami, FL

***Katherine A. Lauer**

Partner
Latham & Watkins LLP
San Diego, CA

Bruce A. Levy

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Boston, MA

Kevin G. McAnaney

Law Offices of
Kevin G. McAnaney
Washington, DC

Katherine McDermott

Morgan, Lewis & Bockius LLP
Washington, DC

Christopher B. Mead

London & Mead
Washington, DC

Mark F. Mendelsohn

Paul, Weiss, Riffkind,
Wharton & Garrison LLP
Washington, DC

Robert Patten

Managing Attorney
Medicaid Fraud Division
Office of the Attorney General
Boston, MA

Gregory L. Poe

Law Offices of
Gregory L. Poe PLLC
Washington, DC

Vicki L. Robinson

Senior Advisor to the Inspector
General for Health Care
Reform
U.S. Department of Health
and Human Services
Washington, DC

Robert L. Roth

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Washington, DC

Robert S. Salcido

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Feld LLP
Washington, DC

Joan M. Silverstein

Deputy Chief
Economic Environmental
Crime Section
Southern District of Florida
Miami, FL

Howard R. Sklamberg

Director of the Office of
Enforcement
Food and Drug Administration
Silver Spring, MD

Shelly R. Slade

Partner
Vogel, Slade & Goldstein
Washington, DC

Heidi A. Sorensen

Of Counsel
Foley & Lardner LLP
Washington, DC

Ryan K. Stumphauzer

Assistant U.S. Attorney
Southern District of Florida
Miami, FL

Ellyn L. Sternfield

Of Counsel
Mintz, Levin, Cohn, Ferris,
Glovsky and Popeo, PC
Washington, DC

Gerald B. Sullivan

Assistant U.S. Attorney
Eastern District of
Pennsylvania
Philadelphia, PA

Spencer Turnbull

HEAT Initiative Administrator
Office of Inspector General,
U.S. Department of Health
and Human Services
Washington, DC

Hank Walther

Assistant Chief
Fraud Section,
Criminal Division
U.S. Department of Justice
Washington, DC

Heidi A. Wendel

Chief, Civil Fraud Unit
U.S. Attorney's Office,
Southern District of New York
New York, NY

Susan Winkler

Chief, Health Care Fraud Unit
District of Massachusetts
Boston, MA

Joe D. Whitley

Greenberg Traurig, LLP
Atlanta, GA

Howard Young

Morgan, Lewis & Bockius LLP
Washington, DC

***Barbara L. Zelter**

Executive Director
National Association of
Medicaid Fraud Control Units
Washington, DC

*** Planning Committee Members**

Program Agenda

Day One ■ Wednesday ■ May 11, 2011

11:00 p.m. **REGISTRATION BEGINS**

2:00 p.m. **FOUNDATIONS OF HEALTH LAW**

This session is intended to serve as both an introduction to and a review of current aspects of public and private health care programs, including discussion of recent health care reform measures related to health care fraud enforcement, in order to understand the context in which health care fraud and abuse can arise and to examine key aspects of the health care regulatory system that subject providers to the most scrutiny.

Moderator: Robert Homchick
Carol J. Bennett
Kevin G. McAnaney

4:00 p.m. **BREAK**

4:30 p.m. **FOUNDATIONS OF WHITE COLLAR LAW, PRACTICE AND HEALTH CARE FRAUD**

This session will address issues and aspects of representing and advising clients involved in white collar criminal or civil actions and review common practice and ethical situations typically encountered in the handling of a health care fraud case from the perspective of representing an individual or an organization.

Moderator: Marcos D. Jimenez
Charles H. Hobgood
Heidi A. Wendel

6:00 p.m. **ADJOURN**

Day Two ■ Thursday ■ May 12, 2011

8:00 a.m. **GENERAL REGISTRATION AND WELCOMING REMARKS**

Gabriel L. Imperato, Program Chair

8:15 a.m. **KEYNOTE SPEAKER**

Wilfredo Ferrer, U.S. Attorney, Southern District of Florida, Miami, Florida

8:45 a.m. **GOVERNMENT ENFORCEMENT PANEL**

This panel will discuss the basis for criminal and civil liability for health care fraud, recent enforcement actions and initiatives, and the future of criminal and civil health care fraud enforcement.

Moderator: Katherine A. Lauer
Daniel R. Anderson
Mark Collins
Spencer Turnbull
Hank Walther

10:00 a.m. **BREAK**

10:15 a.m. **ENFORCEMENT ACTIONS AGAINST INDIVIDUALS**

This panel will discuss the recent increase in criminal and civil enforcement against individuals and the basis for individual liability in health care fraud cases.

Moderator: Johnathan L. Diesenhaus
Laura Ellis
Gregory L. Poe
Howard R. Sklamberg

12:00 p.m. **LUNCH – Keynote Speaker**

Vicki L. Robinson – Senior Advisor to the Inspector General of the U.S. Department of Health and Human Services for Health Care Reform

2:00 p.m. FALSE CLAIMS ACT DEVELOPMENTS

This panel will discuss important recent developments in the application of the Fraud Enforcement and Recovery Act of 2009 and amendments to the False Claims Act during 2010 and related litigation and settlements of state and Federal False Claims Act cases.

Moderator: Robert Patten
John T. Boese
Michael Granston
Thomas M. Greene
Kirsten Mayer

3:30 p.m. BREAK

3:45 p.m. HEALTH CARE FRAUD WORKSHOPS

Workshops have been planned to cover a variety of interesting and current topics. Facilitators experienced in the subject matter of each workshop will lead the discussions, with the goal of eliciting the views and knowledge of the participants, many of whom have a vast amount of practical experience. The number and subject matter of the workshops may be determined by registration and thus are subject to change.

A. FOREIGN CORRUPT PRACTICES ACT

Workshop Leaders: Mark F. Mendelsohn
Charles Hacker

B. STATE ENFORCEMENT AND MEDICAID FRAUD

Workshop Leaders: Mark Collins
Ellyn L. Sternfield

C. ADVANCED STARK LAW AND COMPLIANCE

Workshop Leaders: Robert Homchick
Kevin G. McAnaney

4:45 p.m. BREAK

5:00 p.m. CONCURRENT PANEL SESSIONS

A. PHARMACEUTICAL AND MEDICAL DEVICE FRAUD AND ABUSE

This panel presentation will focus on recent enforcement actions against pharmaceutical and medical device companies and the different theories of liability against those organizations.

Moderator: Virginia A. Gibson
Neil V. Getnick
Robert Patten

B. CRIMINAL AND CIVIL LIABILITY FOR OVERPAYMENTS

This panel will discuss the criminal and civil basis for overpayment liability as well as its application under the United States False Claims Act.

Moderator: Laurence J. Freedman
Michael Granston
Robert L. Roth
Shelly R. Slade

6:15 p.m. ADJOURN

6:30 - 8:30 p.m. WELCOME RECEPTION SPONSORED BY:

*Broad and Cassel
Katten Muchin Rosenman LLP
Morgan, Lewis & Brockius LLP*

Day Three ■ Friday ■ May 13, 2011

8:30 a.m. TRIAL PRACTICE DEMONSTRATION – U.S. v. Fallah, et al (S.D. Texas)

This case involved ambulance transportation of dialysis patients to regularly scheduled non-emergency dialysis treatments. The indictment charged the defendants with false and fraudulent claims for medically unnecessary ambulance transports, kickbacks to ambulance transportation companies, and money laundering. This jury trial involved significant issues in the application of rules for reimbursement and ambiguity of the regulations. The case also included issues of proper jury instruc-

tion, and damages in connection with the false claims, kickbacks to the ambulance companies and to the patients.

Moderator: Joe D. Whitley
Al Balboni
Suzanne R. Bradley
Michael E. Clark
Philip H. Hilder

10:00 a.m. BREAK

10:15 a.m. HEALTH CARE FRAUD WORKSHOPS

A. VOLUNTARY DISCLOSURE AND COOPERATION IN GOVERNMENT INVESTIGATIONS

Workshop Leaders: Ryan K. Stumphauzer
Howard Young

B. FEDERAL SENTENCING GUIDELINES AND CRIMINAL AND CIVIL DAMAGES

Workshop Leaders: Curtis Bernstein
Bruce A. Levy

C. AFFIRMATIVE RESPONSES TO GRAND JURY INVESTIGATIONS, SEARCH WARRANTS AND SUBPOENAS AND PRIVATE CONTRACTOR AND CONGRESSIONAL INVESTIGATIONS

Workshop Leaders: Joshua G. Berman
Kim Brandt
Joan M. Silverstein

11:15 a.m. BREAK

11:30 a.m. CONCURRENT PANEL SESSIONS

A. LITIGATING FALSE CLAIMS ACT CASES

This panel will examine the key considerations, strategies and timing involved in the motion practice and procedural issues when it becomes necessary to litigate a health care False Claims Act case.

Moderator: Ellyn L. Sternfield
Tracy L. Hilmer
Christopher B. Mead

B. NEGOTIATING COMPLEX CIVIL SETTLEMENTS AND CORPORATE INTEGRITY AGREEMENTS

This panel will review the increasingly complex issues and aspects of settlement of federal and multi-state enforcement actions.

Moderator: Heidi A. Sorensen
Daniel R. Anderson
Laura Ellis
Charles W. Gambrell, Jr.

12:45 p.m. BREAK

1:00 p.m. SPECIALTY WORKSHOPS – Box Lunch Available For Purchase

These workshops are designed to be confidential sessions where defense, government and relator's counsel can discuss matters unique to their roles in criminal and civil health care fraud cases.

A. WORKSHOP FOR DEFENSE AND IN-HOUSE COUNSEL

Workshop Leaders: Katherine A. Lauer
Katherine McDermott

B. WORKSHOP FOR GOVERNMENT COUNSEL

Workshop Leaders: Charles W. Gambrell, Jr.
Heidi A. Wendel

C. WORKSHOP FOR QUI TAM RELATORS AND OTHER PLAINTIFFS COUNSEL

Workshop Leaders: Neil V. Getnick
Shelly R. Slade

2:00 p.m. **BREAK**

2:15 p.m. **CONCURRENT PANEL SESSIONS**

A. CRIMINAL AND CIVIL LIABILITY FOR LACK OF MEDICAL NECESSITY

This presentation will discuss the basis for criminal and civil liability for claims for medically unnecessary health care services.

**Moderator: Katherine McDermott
Jeffrey Dickstein
Robert S. Salcido**

B. ETHICAL ISSUES IN CRIMINAL AND CIVIL FRAUD CASES

ETHICS

This session will review the most common ethical issues encountered in representing health care clients in transaction, litigation, and enforcement matters.

**Moderator: Michael K. Loucks
Hank Walther**

3:30 p.m. **ADJOURN**

UNABLE TO ATTEND?



See registration and order form for course materials from this program.

For more information about this National Institute, the ABA, the ABA Criminal Justice Section, Health Law Section, Young Lawyers Division, and ABA-CLE, please call ABA Member Services at 800.285.221 or visit our Web site at www.abacle.org.

Program Information

REGISTRATION FEES

To register, or for additional information, call 800.285.2221 or visit the ABA-CLE Web site at www.abacle.org/programs/hcf. Register on or before April 11, 2011 and attend this program at the early bird rate listed below

Early Bird Tuition (Valid through April 11, 2011)

\$1,190 General Public

\$1,095 ABA Members

\$950 Criminal Justice Section Members, Health Law Section Members, and Young Lawyers Division Members

\$475 Government Lawyers/Employees

Standard Tuition (Valid after April 11, 2011)

\$1,375 General Public

\$1,255 ABA Members

\$1,095 Criminal Justice Section Members, Health Law Section Members, and Young Lawyers Division Members

\$550 Government Lawyers/Employees

Group and Other Discounts

Register three or more people at the same time to receive an additional \$50 reduction on each program tuition. Larger group discounts and special rates for full-time law students, academics and government employees also are available. For more information, contact Sabrina Harris at 312.988.6342.

COURSE MATERIALS

Course materials for this ABA-CLE National Institute will be provided via flash drive as part of your registration fee. Hard copy course materials are available upon request. Please indicate your preference when registering for this program.

MCLE

Mandatory continuing legal education (MCLE) accreditation has been requested from all states which require continuing legal education. 16.75 hours of CLE credit including 1.25 hours of Ethics credit have been requested from those states recognizing a 60-minute credit hour and 20.10 hours of CLE credit including 1.50 hours of Ethics credit have been requested from those states recognizing a 50-minute credit hour. For NY-licensed attorneys: This transitional CLE program has been approved for all NY-licensed attorneys in accordance with the requirements of the New York State CLE Board of New York MCLE (18.00 total NY transitional MCLE credits including 1.50 hours of Ethics credit).

SCHOLARSHIPS

Scholarships to defray tuition expense for National Institutes are available upon application. Preference will be given to public interest lawyers, government lawyers, law professors and solo or small firm practitioners. For more information, on scholarships visit www.abacle.org/scholarship/home.html.

SERVICES FOR PERSONS WITH DISABILITIES

If special arrangements are required, please contact Courtney Anderson at 312.988.6210. Reasonable advance notice is requested.

IN-PERSON REGISTRATION

If you plan to register in person, please call the ABA at least 24 hours in advance to confirm that the program

is being held as scheduled and that space is available. Cash payments will not be accepted.

SPONSORSHIP OPPORTUNITIES

For information on sponsorship opportunities, please contact Courtney Anderson at 312.988.6210.

CANCELLATIONS

Cancellations received 5 business days or more before the program will receive a 100% refund, less a \$50 cancellation fee. No refunds will be provided for cancellations after that date; however, substitute registrants are welcome at any time. To cancel your registration or substitute another individual, please call the ABA Service Center at 800.285.2221 or fax your request to 312.988.5850. Registrants who do not attend the program will receive a copy of the program course materials after the program.

PROGRAM CONFIRMATION

Written confirmation of your registration will be sent to you upon receipt. Please take it with you to the National Institute as proof of registration. If you do not receive the confirmation notice prior to the presentation, please call the ABA at least 24 hours in advance to confirm that your registration was received and the program is being held as scheduled.

HOTEL INFORMATION

Eden Roc Renaissance Miami Beach

4525 Collins Avenue
Miami Beach, FL 33140
301.531.0000 or 800.319.5354
Single/Double: \$249

All room rates are subject to city occupancy and sales tax. Mention this ABA meeting to receive the special discounted rate.

AIRLINE INFORMATION

Discounted fares are available from ABA Orbitz for Business including ABA negotiated discounts on American and United. To book online, go to www.americanbar.org/membership/benefits_of_membership/travel_services.html, and click under the Orbitz for Business logo at the top of the page; then click on the appropriate link in the Self Paid Travel box. For assistance with online or offline reservations, call toll free 1.877.222.4185.

Discounts can also be obtained directly from the carrier. American Airlines: Call 1.800.433.1790, code **A1911SS**; United Airlines: Call 1.800.521.4041, code **578IG**.

STANDING COMMITTEE ON CONTINUING LEGAL EDUCATION

Under the guidance of the Standing Committee on Continuing Legal Education, the Center for Continuing Legal Education administers and produces National Institutes, teleconferences, webinars, other technology-based offerings, and course materials to assist lawyers with their continuing legal education efforts.

David W. Hilgers, Chair
Brown McCarroll, L.L.P., Austin, TX

ABA CENTER FOR CONTINUING LEGAL EDUCATION

Jill Eckert McCall, Director
Earnestine Murphy, Associate Director,
Programming

Registration and Order Form

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May 11-13, 2011 | Eden Roc Renaissance Miami Beach | Miami Beach, FL

EARLY BIRD TUITION (Valid through April 11, 2011)

- \$1,190 General Public
- \$1,095 ABA Members (\$95 savings!)
ABA # _____
- \$950 Criminal Justice Section Members, Health Law Section Members, and Young Lawyers Division Members (\$240 savings)
ABA # _____
- \$475 Government Lawyers/Employee

STANDARD TUITION (Valid after April 11, 2011)

- \$1,375 General Public
 - \$1,255 ABA Members (\$120 savings!)
ABA # _____
 - \$1,095 Criminal Justice Section Members, Health Law Section Members, and Young Lawyers Division Members (\$280 savings!)
ABA # _____
 - \$550 Government Lawyers/Employees
- Please provide course materials in a printed book.
- Two or more people have registered with me. Please apply the \$50 tuition reduction to each tuition rate indicated above.

HEALTH CARE FRAUD 2011 WORKSHOPS

Please check one workshop for each day and time slot.

Wednesday ■ May 11 ■ 2:00 p.m.

- Foundations of Health Law

Wednesday ■ May 11 ■ 4:30 p.m.

- Foundations of White Collar Law and Practice and Handling A Health Care Fraud Case

Thursday ■ May 12 ■ 3:45 p.m.

- A. Foreign Corrupt Practices Act
- B. State Enforcement and Medicaid Fraud
- C. Advanced Stark Law and Compliance

Thursday ■ May 12 ■ 5:00 p.m. – Concurrent Panel Sessions

- A. Pharmaceutical and Medical Device Fraud and Abuse
- B. Criminal and Civil Liability for Overpayments

Friday ■ May 13 ■ 10:15 a.m.

- A. Voluntary Disclosure and Cooperation in Government Investigations
- B. Federal Sentencing Guidelines and Criminal and Civil Damages
- C. Affirmative Responses to Grand Jury Investigations, Search Warrants and Subpoenas and Private Contractor and Congressional Investigations

Friday ■ May 13 ■ 11:30 a.m. – Concurrent Panel Sessions

- A. Litigating False Claims Act Cases
- B. Negotiating Complex Civil Settlements and Corporate Integrity Agreements

SPECIALTY WORKSHOPS

Friday ■ May 13 ■ 1:00 p.m.

- A. Workshop for Defense and In-House Counsel
- B. Workshop for Government Counsel
- C. Workshop for *Qui Tam*/Relators and Other Plaintiffs Counsel

Friday ■ May 13 ■ 2:15 p.m. – Concurrent Panel Sessions

- A. Criminal and Civil Liability For Lack Of Medical Necessity
- B. Ethical Issues in Criminal and Civil Fraud Case **ETHICS**

- Yes, I would like to purchase a box lunch for \$25.00. (Lunch options will be available at program registration.)

Course Materials

Every registrant will receive a flash drive of the informative course materials that can be used as a comprehensive resource long after the program is held

ABA MEMBERSHIP

- I am interested in becoming a member of the American Bar Association, please send me information and membership forms.

SECTION MEMBERSHIP (MUST BE AN ABA MEMBER)

- Enroll me in the Criminal Justice Section. Enclosed is a separate check for \$45.
- Enroll me in the Health Law Section. Enclosed is a separate check for \$50.
- Enroll me in the Young Lawyers Division. Membership in the Young Lawyers Division is free and automatic for all ABA Members under 36 years old or admitted to practice for less than 5 years.

PRODUCT ORDER FORM

Order below or online at www.abaclecatalog.org

- Send me the printed **Course Materials (CEN11HCFCOR)** for **\$225** General Public, **\$205** ABA Members, **\$185** Criminal Justice Section and Health Law Section Members, plus \$12.95 for domestic shipping and handling.

Illinois residents, add 9.75% sales tax; District of Columbia residents, add 6.00% use tax. Price is subject to change after **5/13/11**.

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May 11-13, 2011

To register or for additional information, Call **1.800.285.2221** or visit our Web site at www.abacle.org/programs/hcf.

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www.abacle.org/programs/t11nsp1.html

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www.abacle.org/programs/t11ak11.html

Reimbursement & False Claims Act Fundamentals

May 19, 2011
www.abacle.org/programs/t11fca1.html

Fundamentals of Medical Staff & Peer Review Issues

June 16, 2011
www.abacle.org/programs/t11mpr1.html

Healthcare Antitrust Fundamentals

July 21, 2011
www.abacle.org/programs/t11haf1.html

FDA Public Health Clinical Trials Fundamentals

August 18, 2011
www.abacle.org/programs/t11fda1.html

For additional information see the calendar at www.abacle.org.



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Center for Continuing Legal Education
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