

BUILDING WINNING APPEAL ISSUES INTO SOCIAL SECURITY DISABILITY CASES THROUGH EFFECTIVE VOCATIONAL EXPERT CROSS-EXAMINATION

6 CLE HOURS INCLUDING | 1 ETHICS HOUR | 4 TRIAL PRACTICE HOURS

AGENDA

PRESIDING:

Timothy M. Klob, Program Chair, Klob & Larrison Attorneys, Loganville, GA

SPEAKERS:

Karl Osterhout, Osterhout Berger Disability Law, LLC, Pittsburgh, PA
David F. Chermol, Chermol & Fishman, LLC, Philadelphia, PA

8:55	WELCOME AND PROGRAM OVERVIEW <i>Timothy M. Klob</i>	1:00	THE EFFECT OF THE NEW REGULATIONS ON VE CROSS AND WHAT SSA IS TEACHING ITS ALJS—AN ETHICAL PERSPECTIVE In some ways, this entire course is an ethics course as we believe the failure to properly cross-examine VEs means that you are not serving your clients properly. However, it is particularly important to be aware of the new regulations pertaining to the submission of evidence. Representatives now have significant additional ethical obligations beyond what SSA used to require. We will discuss specific actions that you can take to comply with the new 5-day rule in such a way that will prevent the ALJ from excluding relevant evidence, even if that evidence is not submitted 5 days prior to the hearing. We will also cover the impact these rules have on VE cross.
9:00	THE BASICS OF FEDERAL COURT PRACTICE IN SOCIAL SECURITY CASES An introduction to the ABCs of federal court practice in Social Security cases, including the applicable standard of review; how to handle these cases without charging the claimant or a referral source a fee; the seven most common bases, which will result in a federal court WIN for your client; and why pre-hearing and post-hearing briefing is absolutely necessary to raise and preserve most appellate court issues.		
10:00	FIRST LEVEL PRESENTATION OF VOCATIONAL ISSUES—THE QUESTIONS YOU MUST ALWAYS ASK EVERY VOCATIONAL EXPERT (VE) Developing a strong appellate argument with respect to vocational testimony is not always very complicated. In this section, we will identify and discuss certain basic but crucial questions that must be asked of a VE in nearly every case. We will explain in detail why these questions matter in terms of building appeal issues into every single case where you attend an ALJ hearing.	2:00	REASONING LEVEL CROSS-EXAMINATION AND WHY YOU SHOULD NEVER LOSE A CASE AT STEP 4 ON AN AS GENERALLY BASIS EVER AGAIN Although most of the case law regarding reasoning level issues is not good for claimants, there are specific actions you can take at a hearing to avoid the effects of that case law and set up reasoning level objections to VE testimony. In this section, we will also provide you with specific guidance on how to make it impossible for an ALJ to effectively deny a case at step 4 on an as generally basis.
11:00	BREAK (Excluded from Webcast)		
11:15	USING THE DOT TO YOUR ADVANTAGE We all know, or should know, two things: (1) that Social Security's rules include a rebuttable presumption that the <i>Dictionary of Occupational Titles</i> is an accurate vocational resource; and (2) despite the first point, the DOT is terribly outdated and often does not reflect how jobs are actually performed in the national economy today. When your case turns on the outcome of step 4, the claimant's ability to perform their past relevant work, knowing how to use the DOT to your advantage is often outcome-determinative.	3:00	BREAK (Excluded from Webcast)
		3:15	ELICITING FAVORABLE VE TESTIMONY DESPITE SEEMINGLY HARMFUL CONSULTATIVE EXAMINATION REPORTS Many reports from consultative examiners are not good for our clients. Yet, it is possible to take aspects of these reports and use them to elicit favorable VE testimony. This section of the course will focus on some very specific techniques that allow you to transform bad evidence into favorable evidence. You will finally learn the true definition of the term "moderate."
12:15	BREAK (Excluded from Webcast)	4:15	ADJOURN



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