

# 2014 PACIFIC JUDICIAL COUNCIL PUBLIC DEFENDER TRAINING



**District Court of Guam**  
February 26 - 28, 2014  
Hagatna, Guam

## ***PROGRAM AGENDA***

### **Wednesday, February 26**

2:30 p.m. – 2:45 p.m.  
***1st Floor Lobby Area***

**Conference Registration**  
Pick up conference materials

2:45 p.m. -- 3:00 p.m.  
***4<sup>th</sup> Floor Courtroom***

**Welcoming Remarks and Introductions of Presenters**  
Hon. F. Philip Carbullido, Justice, Supreme Court of Guam  
Chairman, Pacific Judicial Council Education Committee  
Hon. Frances Tydingco-Gatewood, Chief Judge, District Court of Guam  
Mr. Eric Miller, Guam Public Defender

3:00 p.m. -- 3:30 p.m.  
***4<sup>th</sup> Floor Courtroom***

**Theory and Theme Part I**  
**Presenter:** Attorney Lorna McClusky

Lorna McClusky will begin her two-part presentation discussing the importance of a viable Theory and Theme of Defense in all criminal cases.

The creation, development and presentation of the Theory and Theme will be discussed.

3:30 p.m. – 3:40 p.m.  
***4<sup>th</sup> Floor Public Waiting Area***

**Break**

3:40 p.m. -- 5:00 p.m.  
*4<sup>th</sup> Floor Courtroom*

**Preparing and Litigating Motions to Suppress Evidence**  
**Presenter:** Attorney John Oliva

John Oliva will discuss the steps necessary in the preparation of all types of Motions to Suppress Evidence. He will also address the importance of constitutional and statutory analysis with an additional overview of the application of relevant case law.

5:00 p.m.

**Adjourn**

5:05 p.m.

**PJC Sponsored Delegates Meet at District Court Main Entrance for Transportation Back to Hotel**

**Thursday, February 27**

8:30 a.m. -- 10:00 a.m.  
*4<sup>th</sup> Floor Courtroom*

**Cross Examination Part I: The Traditional Yes/No Control Cross**  
**Presenters:** Attorneys Richard McGee and Kevin McGee

Rich and Kevin McGee will discuss the techniques to be used in the traditional yes/no control cross examination; chapter cross; leading questions (Only); proper sequence of chapters; Trilogies and Looping; control of the run-way witness.

10:00 a.m. -- 10:30 a.m.  
*4<sup>th</sup> Floor Courtroom*

**Introduction to Dynamic Cross Examination Method**  
**Presenters:** Attorneys Richard McGee and Kevin McGee

“Dynamic Cross”; the technique penned and developed by Attorney Jim McComas will be introduced. The key issue of proper Case Analysis will be discussed. The devastating use of open-ended questions on cross will be demonstrated.

“Dance or fight” with the prosecution’s key witnesses to establish a winning story supporting the defense Theory and Theme.

10:30 a.m. -- 10:45 a.m.  
*4<sup>th</sup> Floor Public Waiting Area*

**Break**

10:45 a.m. -- 12:00 p.m.  
*4<sup>th</sup> Floor Courtroom*

(Cont’d.) **Cross Examination Part II: Dynamic Cross Examination**  
**Presenters:** Attorneys Richard McGee and Kevin McGee

Outcome Levers--Trap Doors-Killer Comebacks: Part of the Heart and Soul of an effective Dynamic Cross

12:00 p.m. -- 1:00 p.m.  
***4<sup>th</sup> Floor Jury Assembly  
Room & 4<sup>th</sup> Floor Public  
Waiting Area***

**Group Lunch**

1:00 p.m. -- 5:00 p.m.  
***Breakout Rooms:  
4<sup>th</sup> Floor Courtroom, 4<sup>th</sup>  
Floor Jury Deliberation  
Room, & 1<sup>st</sup> Floor Training  
Room***

**Small Group Sessions: Demonstrations of Cross Examinations  
(Snitch Cross, Victim Cross, Cop Cross)**

**Presenters:** Attorneys Richard McGee, Kevin McGee, Lorna McClusky,  
and John Oliva

The attendees will be split up into groups of 15-20. Cross examinations of a snitch, victim and a cop will be presented with the use of transcripts from the trial of *State v. Peter Piper*--an armed robbery and attempted murder case. Mr. McComas was the defense attorney.

5:00 p.m.

**Adjourn**

5:05 p.m.

**PJC Sponsored Delegates Meet in District Court Main Entrance for  
Transportation Back to Hotel**

**Friday, February 28**

8:30 a.m. -- 9:00 a.m.  
***4<sup>th</sup> Floor Courtroom***

**Theme and Theory Part II**

**Presenter:** Attorneys Lorna McClusky

Lorna McClusky will complete her presentation of the development and presentation of Theme and Theory, including a discussion of the importance of an integrated theory and theme throughout the trial.

9:00 a.m. -- 10:00 a.m.  
***4<sup>th</sup> Floor Courtroom***

**Opening Statements**

**Presenter:** Attorney Lorna McClusky

O.P.E.N.I.N.G.: Obligation to Present Emotive News Indispensable To Negating Guilt! Opening Stories ... created through the use of the “simple seven”- Theme and Theory; Bad People; Bad Facts; Good People; Good Facts and an ending. Seventy Percent Rule: Percentage of Jurors who make up their minds after the O.S. The best story wins!

10:00 a.m. -- 10:15 a.m.  
***4<sup>th</sup> Floor Public Waiting  
Area***

**Break**

- 10:15 a.m. -- 11:15 a.m.  
**4<sup>th</sup> Floor Courtroom**      **Closing Arguments**  
**Presenter:** Attorney John Oliva
- John Oliva will discuss what needs to be said and what cannot be said and how to protect the client’s right to a fair trial during Final Argument. Can the prosecutor call the defendant “a force of evil in our community?”
- 11:15 a.m. -- 12:15 p.m.  
**Breakout Rooms:**  
**4<sup>th</sup> Floor Courtroom,**  
**4<sup>th</sup> Floor Jury Deliberation**  
**Room, & 1<sup>st</sup> Floor Training**  
**Room**      **Small Group Sessions: Opening Statements and Final Arguments**  
**Facilitators:** Attorneys Richard McGee, Kevin McGee, Lorna McClusky and John Oliva
- Each attendee will be encouraged to present an Opening Statement or a Final Argument using the ideas discussed during the program. Use an old case, one coming up, or *Peter Piper*, and think and present “outside the box”.
- 12:15 p.m. -- 1:15 p.m.  
**4<sup>th</sup> Floor Jury Assembly**  
**Room & 4<sup>th</sup> Floor Public**  
**Waiting Area**      **Group Lunch—Presentation of Certificates of Participation**  
Hon. F. Philip Carbullido, Justice, Supreme Court of Guam  
Chairman, Pacific Judicial Council Education Committee  
Hon. Frances Tydingco-Gatewood, Chief Judge, District Court of Guam
- 1:15 p.m. -- 5:00 p.m.  
**Breakout Rooms:**  
**4<sup>th</sup> Floor Courtroom,**  
**4<sup>th</sup> Floor Jury Assembly**  
**Room, & 1<sup>st</sup> Floor Training**  
**Room**      *(Cont’d.)* **Small Group Sessions: Opening Statements and Closing Arguments**  
**Facilitators:** Attorneys Richard McGee, Kevin McGee, Lorna McClusky, and John Oliva
- 5:00 p.m.      **Adjourn**
- 5:05 p.m.      **PJC Sponsored Delegates Meet at District Court Main Entrance for Transportation Back to Hotel**