



**2021 Non-Economic Damages Retreat
Going Below the Surface and Maximizing Your Client's True Losses**

**May 21-22
The Alexandrian, Alexandria, VA and Virtual**

Retreat Chair: Melissa G. Ray, *Nichols Zauzig*, Woodbridge

AGENDA

Friday, May 21

11:30 a.m. **Registration Opens**

12:00 p.m. **Lunch**

12:15 p.m. **Welcome and Introductions**

12:30 p.m. **Conceptualizing the Non-Economic Case at Intake** (CLE=30 mins)
Lauren E. Davis, *First Truth Law, PLLC*, Smith Mountain Lake

Lauren will provide you with a foundation of considerations to help determine if your case is a case with significant non-economic damages as early as intake. She will cover each of the categories of damages, how to develop them, and what kind of evidence you need to best support your client's claim.

1:00 p.m. **Conceptualizing Non-Economic Damages in Wrongful Death Cases** (CLE=30 mins)
Erin E. Jewell, *Patten, Wornom, Hatten & Diamonstein, LC*, Newport News

Building on the foundation laid earlier, Erin will discuss several categories of non-economic damages that can only be claimed in a wrongful death case. She will explain what each of these categories means and ways to present each loss for a beneficiary, including the types of evidence you will need to develop during the case.

1:30 p.m. **Persuasive Closing Arguments** (CLE=45 min)
Denis C. Mitchell, *Stein Mitchell Beato & Misner, LLP*, Washington, DC

Often non-economic damages are the real value in your client's case. But how is the jury supposed to put a dollar amount on non-economic losses? Denis will demonstrate techniques he has successfully used and discuss how to persuasively argue the non-economic losses to maximize your client's recovery.

2:15 p.m. **Break**

2:30 p.m. **Discovery: To Claim Economic Damages or Not** (CLE=30 mins)
John Everett, *ChasenBoscolo*, Baltimore

If you have decided to pursue only the non-economic damages, there are things you need to consider during discovery. First things first is your client. You need to discuss your decision with them and get their approval before moving onto the next steps, such as dealing with written discovery questions seeking information about economic damages. And what is the best way to prepare your client to address these types of questions during their deposition? John will provide strategy, tips and more.

3:00 p.m. **Who are the Right Witnesses?** (CLE=30 mins)
Seth L. Cardeli, *Levin & Perconti*, Rockville, MD

Expert witnesses can help link the mental and physical effects of both visible and invisible injuries to your client, but maybe a healthcare provider who has treated your client for months or a lay witness who has known your client for years has hidden nuggets that truly portray the toll your client has suffered. Seth will discuss what to consider when picking the right witnesses to best support your client's non-economic damages.

3:30 p.m. **Focus Groups – What Resonates?** (CLE=30 mins)
Joseph L. Cantor, *Breit Cantor Grana Buckner, PLLC*, Richmond

One of the difficulties in non-economic damage cases is convincing a jury of your client's injuries and losses. If there is no dollar amount to blackboard, how do you value the intangible harms done to your client? Hear what focus group jurors think about non-economic damages and what resonates with them. You might be surprised.

4:00 p.m. **Communicating Human Damages through Witness Stories** (CLE=60 mins)
Katherine James, *Act of Communication*, Culver City, CA

Hear from Katherine James, author of *Harvesting Witnesses' Stories*, who has studied how to effectively communicate human damages through witnesses. In all likelihood, your client will never be able to regain the life they once had. Learn how to successfully convey the human damages, which are at the heart of the case and where the real value is found.

5:00 p.m. **Adjournment** - Cocktail Reception

Saturday, May 22

8:30 a.m. **Breakfast**

9:00 a.m. **Pre-Trial Checklist to Keep out Economic Damages** (CLE=15 mins)
David M. Irvine, *Allen, Allen, Allen & Allen*, Charlottesville

Good preparation is key. Once you have made the decision to focus your client's case at trial on non-economic damages, David will show you how to prevent the defense from dragging your verdict down with medical bills.

9:15 a.m. **Opening Statement: Priming the Judge/Jury for Non-Economic Damages** (CLE=15 mins)

David Irvine

During the pretrial phase you have successfully kept out the medical bills, but now what? David will explore ways to prime the jury and judge for non-economic damages as a basis for compensating your client with a monetary verdict.

- 9:30 a.m. **Judges' Panel: View of Non-Economic Damages from the Bench in GDC** (CLE=45 mins)
Panelists: The Hon. Tracy W. J. Thorne-Begland, *Richmond General District Court*; The Hon. Deborah C. Welsh, *Loudoun General District Court*; and The Hon. H. Lee Townsend III, *Greensville Combined District Court*
Moderator: Brooke T. Alexander, *River Run Law Group, PLLC*, Richmond

Perhaps your case would be better suited for a bench trial in General District Court, particularly with the increase in jurisdictional limits going into effect on July 1. Come find out what is compelling to a GDC judge when they are the decision makers – and what isn't!

- 10:15 a.m. **Break**

- 10:30 a.m. **Showing Non-Economic Damages to Negotiate Settlements** (CLE=45 mins)
Christopher J. Regan, *Regan, Zambri & Long, PLLC*, Washington DC, and The Hon. Jane M. Roush (Ret.), *The McCammon Group*, Fairfax

To maximize a settlement in your client's case you need to convince the insurance company that your client's human losses have value. Learn tips to effectively convey non-economic damages to an adjuster for settlement whether in a settlement package or at mediation. Also hear an experienced mediator discuss what works, and what doesn't, from a mediator's perspective.

- 11:15 a.m. **Persuasive Closing Demonstratives** (CLE=30 mins)
Asha R. Kays, *Amicus Visual Solutions*, Richmond, and Matthew Powell, *Medical Management Resources, LLC*, Richmond

We all know a picture is worth 1,000 words. How does that apply in civil cases? Visual depictions can provide meaning to a loss that cannot be expressed adequately by words alone. Learn techniques for illustrating non-economic damages in your mediation or closing argument using demonstrative exhibits with maximum impact.

- 11:45 a.m. **Non-Economic Damage Verdicts in the Time of COVID: Nationwide** (CLE=45 mins)
Panelists: Brian L. Salvi, *Salvi Schostok & Pritchard*, Chicago, IL; and James W. Nobles, Jr., *Attorney At Law*, Clinton, MS
Moderator: Melissa G. Ray, *Nichols Zauzig*, Woodbridge

While it may seem like time is standing still, justice can and is moving forward. Hear what's happening with non-economic cases outside of the Commonwealth and learn how verdicts are being won for plaintiffs. Find out how the pandemic has impacted non-economic damage verdicts. These lessons will be applicable and beneficial for your client here in Virginia.

12:30 p.m. **Former Defense Attorney Panel: How Does the Defense Evaluate Non-Economic Damages?** (CLE=30 mins)

Moderator: John J. 'JJ' Siegner III, *Allen, Allen, Allen & Allen*, Richmond

Panelists: Heather E. Zaug, *Michie Hamlett*, Charlottesville; and Powell 'Nick' M. Leitch III, *Gentry Locke*, Roanoke

Gain rare insight into the other side. The defense will undervalue your client's claim by minimizing the non-economic damages. Hear from former defense attorneys about how, in their former lives, they and their client's put a value on those losses that cannot be easily defined in strict monetary terms.

1:00 p.m. **Non-Economic Verdicts in the Face of COVID: Virginia Lessons** (CLE=30 mins)

Lisa Brook, *Michie Hamlett*, Charlottesville, VA (by Zoom)

Taking what we learned earlier from others out of state, we turn our attention to home. Though the opportunities to get in front of a Virginia jury are slim these days, trials are happening, and clients are winning in the courtroom. Even when the odds may not be in your favor, hear how it is possible.

1:30 p.m. **Adjournment**

CLE Hours = 8.5 pending