

**Post-Release Supervision Resentencing**  
**After Sparber & Garner**  
**September 25, 2008**  
**by Barbara Zolot & David Klem**

Timed Agenda

(\* indicates relevant material in packet)

- I. Introduction (5 minutes)
- II. Background (15 minutes)
  - 1998: *Jenna's Law* & the new determinate sentencing scheme
  - 2005: People v. Catu
  - 2006: Earley v. Murray
  - 2008 (April): People v. Sparber; In re Garner
  - 2008 (June): waves of resentencings & P.L. § 70.85\*
  - On-going: class action litigation
- III. Preparing for Resentencings (10 minutes)
  - Plea or trial?
  - Any mention of PRS at plea, sentencing, or commitment papers?
  - Predicate status
  - Time computation\*
  - Any violations of PRS?
  - Prison records
- IV. Arguments to Make at Resentencings (40 minutes)
  - Client's interests
  - Double Jeopardy
    - when client fully completed sentence\*
    - when client not fully completed sentence\*
  - Plea withdrawal
    - threatening to withdraw plea\*
    - D.A. consenting to non-imposition of PRS
  - Minimum term of PRS for first felony offenders\*
  - Lower term of incarceration\*
  - Taking an appeal
- V. Other Issues (10 minutes)
  - Retroactive effects of resentencing\*
  - Sequentiality
  - Cases that DOCS will miss
  - Prompting resentencings\*
- VI. Q & A (15 minutes)

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