

ANNUAL DRUNK DRIVING DEFENSE SEMINAR

PRESENTED LIVE ONLY

NOVEMBER 15-16, 2011

THE OSTHOFF RESORT
Elkhart Lake, Wisconsin

15 CLE CREDITS (INCLUDES 1.5 ETHICS CREDITS)

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ABOUT THE PROGRAM

The Annual Drunk Driving Defense Seminar is *THE* seminar for all attorneys who practice drunk driving defense. ONLY defense attorneys are admitted and attorneys who belong to a firm that prosecutes traffic matters are not permitted to attend. Having a defense-attorneys-only seminar assures the most open flow of information between presenters and attendees.

This year's seminar will cover a range of topics which are central to every defense attorney's practice. Whether you have tried 50 cases or never had a jury trial, this seminar offers defense attorneys practical tips on improving their practice. The two-day seminar will give you the opportunity to network with other practitioners and speak informally with the presenters. And for the fourth year in a row, tuition has been frozen.

As a special feature at the close of Day One, attendees will be invited to an evening social event held at The Paddock Club in Elkhart Lake. Heather Stapula of ALCOLOCK MI, Inc. will explain and demonstrate ignition interlock devices and PBTs. Attendees will have the opportunity to try out the devices themselves. Don't make dinner plans as you won't leave hungry! Enjoy the evening social event and plan to spend the night at The Osthoff Resort.

PROGRAM SCHEDULE

TUESDAY, NOVEMBER 15

8:00 a.m. Registration/Breakfast

8:50 a.m. **WELCOME/OPENING REMARKS**

- *Barry Cohen, Seminar Chair*

9:00 a.m. **DAUBERT FOR DUMMIES** - *John Schiro*
- *Michele Tjader*

9:50 a.m. BREAK

10:00 a.m. **DAUBERT FOR DUMMIES (CONT.)** - *Schiro/Tjader*

10:50 a.m. BREAK

11:00 a.m. **CASE LAW UPDATE AND PRESERVING ISSUES FOR APPEAL** - *Chad Lanning*

11:50 a.m. LUNCH (provided)

1:00 p.m. **ACT 100 UPDATE** - *Kirk Obear*

1:50 p.m. BREAK

2:00 p.m. **ACT 100 UPDATE (CONT.)** - *Kirk Obear*

2:50 p.m. BREAK

3:00 p.m. **BLOOD TESTING ISSUES** - *Andrew Mishlove*

3:50 p.m. BREAK

4:00 p.m. **WHAT CONSTITUTES A PRIOR OWI CONVICTION** - *Stephen Mays*

4:50 p.m. ADJOURN

5:30 p.m. **SOCIAL EVENT**, *The Paddock Club*

6:30-7:30p.m. **IGNITION INTERLOCK AND PBT PRESENTATION** - *Heather Stapula*
ALCOLOCK MI, Inc.

WEDNESDAY, NOVEMBER 16

8:00 a.m. Registration/Breakfast

9:00 a.m. **ETHICS PRESENTATION:
WHAT EVERY DEFENSE ATTORNEY NEEDS TO
KNOW ABOUT PRIVILEGE AND CONFIDENTIALITY** - *Timothy Pierce*

10:15 a.m. BREAK

- 10:25 a.m. **ON ITS LAST BREATH: FISCHER AND
THE CONSTITUTIONAL RIGHT TO PRESENT
A DEFENSE IN WISCONSIN** - *Michael Witt*
- 11:15 a.m. BREAK
- 11:25 a.m. **GETTING THE MOST OUT OF
PRETRIAL MONITORING PROGRAMS** - *Sara Carpenter*
- 12:15 p.m. LUNCH (provided)
- 1:15 p.m. **ADMINISTRATIVE SUSPENSION UPDATE** - *Barry Cohen*
- 2:05 p.m. BREAK
- 2:15 p.m. **SELECTED ISSUES IN REFUSALS, FST,
DRUGGED DRIVING** - *Tracey Wood*
- 3:30 p.m. BREAK
- 3:40 p.m. **THINKING OUTSIDE THE BOX:
CREATIVE TRIAL STRATEGIES TO
UNDERMINE BREATH TEST EVIDENCE** - *Dennis Melowski*
- 4:30 p.m. ADJOURN

PROGRAM MATERIALS

Program materials are exhaustive and prior attendees have described them as being worth the price of the seminar. This year will be no exception. Attendees who register by November 4, 2011, will receive the program materials on CD prior to attending, thereby allowing a pre-seminar review, or if an attendee prefers, the opportunity to print the materials for use without a computer.

HOTEL ACCOMMODATIONS

The Annual Drunk Driving Defense Seminar is being held at The Osthoff Resort in Elkhart Lake, WI. Seminar attendees qualify for special lodging rates of \$99.00 for a standard room or \$139.00 for a two-bedroom suite if reserved not later than October 13, 2011. Book your room directly with The Osthoff Resort at (800) 876-3399. For complete resort information, visit www.osthoff.com.

COMMENTS FROM LAST YEAR'S ATTENDEES

“Everything was great as always!”
“Great location! Rooms are really nice and seminar room was good.
“Osthoff is beautiful and close”
“Food was outstanding”
“More than enough to eat, great quality”
“Layout well though out.”
“The 50 minute sessions with a 10 minute break is great.”
“Good information and examples to use in real cases.”
“Worth staying till the end.”
“ This conference has been a great learning experience. Everything was great.”
“As always, a first rate conference at a great venue.”
“This was an absolutely fantastic seminar from start to finish, including the meals and evening ‘social’.”
“Great opportunity to meet and talk to other criminal defense lawyers.”
“Excellent speakers and topics – very informative.”
“Not only best OWI seminar out there, but one of THE BEST seminars out there!”
“Continues to be a great seminar. Maybe the BEST in the state. Great location. Very good speakers.”
“Great conference – very informative and never boring. It’s obvious you put a lot of thought and work into making this a great conference.”

TUITION WAIVER

If you believe that you are unable to attend the seminar without a tuition reduction or waiver, send your request explaining your circumstances to Barry Cohen, Program Chair, N9661 Willow Road, Elkhart Lake, WI 53020.

CONTACT US

For more information contact Barry Cohen, Program Chair, at barrycohen1@hotmail.com or (920) 565-4225.

REGISTRATION

Name _____
Firm Name _____
Address _____
City/State/Zip _____
Phone _____ Ext. _____
E-mail _____

By signing here, I attest that I defend citizens accused of OWI and do not belong to a firm which prosecutes traffic matters for any entity.

Signature

TUITION Complete Seminar \$425.00
(Includes breakfast, lunch, snacks, beverages each day, admission to the evening social event, and program materials on CD)

Registration must be received no later than November 4, 2011, in order to receive materials on CD prior to seminar. Those registering after November 4, 2011 will receive the program materials CD at the seminar.

PAYMENT

_____ Check Enclosed (Payable to Annual Drunk Driving Defense Seminar)
_____ Please Charge \$ _____ to my Visa Mastercard
Credit Card Number _____/_____/_____/_____/ Expiration Date ____/____
Print Name As It Appears On Card _____
Authorized Signature _____

Mail Registration Form to: Annual Drunk Driving Defense Seminar
N9661 Willow Road
Elkhart Lake, WI 53020

ABOUT THE PRESENTERS

Sara Carpenter, Multi-County Administrator – Division of Court Services & Community Alternatives, began at WCS in 1991 as a Caseworker for the Intensive Tracking Program. After five years, she became the Supervisor of Juvenile Programs and then in 2003, took on the position of Waukesha Program Director. In 2007, Sara was promoted to Waukesha Administrator and in 2008, she became a Multi-County Administrator, with oversight of 19 adult and juvenile programs in seven counties: Waukesha, Milwaukee, Sheboygan, Kenosha, Jefferson, Ozaukee, and Walworth Counties. As the Multi-County Court Services Administrator, she is responsible for oversight of all current contracts, business development, and administering all programming related to Secure Continuous Remote Alcohol Monitoring (SCRAM) Services. She also has oversight over the following programs: four Intoxicated Driver Intervention Programs, Juvenile Intensive Tracking, Juvenile Home Detention, Alcohol Treatment Court, Pretrial Supervision, the Mediation & Restorative Justice Center (General Mediation Services, Agree to Succeed, Kick Conflict, Teen Court, Victim Offender Conferencing – adult and juvenile, and the Youth Accountability Panel), the Day Report Center, Re-Entry Employment, Adult Community Service Options, and Pretrial Jail Screening.

Sara received a Bachelor of Arts degree in Sociology/Criminal Justice from the University of Wisconsin-Whitewater. She is a Certified Pretrial Services Professional (NAPSA) and Certified Noble Split Specimen Cup Collector/Trainer. She has been actively involved in many community groups and committees. These include the Waukesha County Drunk Driving Victim Impact Panel Steering Committee, the Waukesha County Programs and Alternatives Committee, the Waukesha County OWI Work Group, the Waukesha County Juvenile Justice Evidence Based Practice Work Group, the Waukesha Juvenile Justice Committee, the Waukesha County Public Relations Committee, the Waukesha County Drug Free Coalition, the Waukesha County Drug Abuse Trends Committee, the Milwaukee County Programs and Interventions Committee, and the Waukesha Child and Family Services Advisory Committee.

Barry S. Cohen has practiced criminal and traffic defense for over 25 years. His firm is located in a converted fieldstone and log horse barn near Elkhart Lake. Before establishing the practice in Elkhart Lake, Mr. Cohen worked for two years in a general practice firm in Osceola and then honed his aggressive defense approach working for several years with the infamous Bill Pangman in Brookfield. He has presented at numerous seminars over the years, and has organized drunk driving defense seminars for more than 25 years. Mr. Cohen has served on many special committees of the legislature, Governor, and Department of Transportation, to address drunk driving-related issues. He was President of the Criminal Law Section of the State Bar of Wisconsin, and was a founding member of the Wisconsin Association of Criminal Defense Lawyers, serving on its Board of Directors for many years.

Chad A. Lanning founded the Lanning Law Offices, LLC in 2006 after defending drunk driving cases for over 8 years with Melowski, Obear & Cohen, S.C. and working for Reinhart Boerner Van Deuren S.C. His practice is now limited to traffic and criminal defense at both the trial and appellate levels. Recently, Attorney Lanning convinced the Court of Appeals to grant a felony drunk driver a new trial because the courthouse doors were locked during the defendant's case-in-chief. *See State v. Vanness*, 2007 WI App 195.

Attorney Lanning has lectured on many traffic topics and is a continuing contributor to the State

Bar Traffic Law and Practice Manual. Further, he is the only lawyer twice selected as a Wisconsin *SuperLawyer Rising Star* in the practice area of drunk driving defense.

Attorney Lanning has served on the Board of Directors of the State Bar of Wisconsin, Young Lawyers Division, was elected to the office of Vice-Chair of the American Bar Association, Law Student Division and has served on numerous committees at both the state and national levels. Attorney Lanning is a member of the National Association of Criminal Defense Lawyers and the Wisconsin Association of Criminal Defense Lawyers.

Stephen Mays, as the owner of Mays Law Office, LLC, practices in all areas of criminal and traffic defense throughout the entire State of Wisconsin. Prior to his becoming a defense attorney, Attorney Mays worked in the Dane County District Attorney's office.

Throughout his career, Attorney Mays has appeared in 54 of Wisconsin's 72 counties. He has won OWI cases at the municipal, circuit, appellate and Supreme Court levels, and appears regularly before the Federal District Court of Wisconsin and the United States Court of Appeals for the 7th Circuit. He is also admitted to practice before the United States Supreme Court.

He is a past President and member of the Dane County Criminal Defense Lawyers' Association, as well a sustaining member of the National Association of Criminal Defense Lawyers, Wisconsin Association of Criminal Defense Lawyers, and the Bar Association for the Western and Eastern Districts of Wisconsin. He is a member of the James E. Doyle Inns of Court, as well as the National College for DUI Defense and Drunk Driving Roundtable - an association of attorneys dedicated to the tenacious defense of citizens accused of drunk driving.

Dennis M. Melowski is the head of Melowski & Associates, LLC in Sheboygan, Wisconsin. His practice is exclusively limited to drunk driving defense, and he has an unmatched record of success in his field. In 18 years of practice, Dennis has had more than 350 DUI cases dismissed or amended, including more than 80 complete acquittals in jury trials.

Andrew Mishlove is recognized as an attorney of pre-eminent expertise and experience in drunken driving defense. He is board certified as a drunken driving defense specialist by the National College for DUI Defense, accredited by the American Bar Association. He has been a participant at the National College for DUI Defense presented at the Harvard Law School seven times; and he has been an instructor in that program four times. Mr. Mishlove is a past chairman of the Criminal Law Section of the State Bar of Wisconsin and editor of the Wisconsin Criminal Law News. He has been a presenter and program chair for many national and local continuing legal education seminars. He is a present member of the Board of Regents of the NCDD and gave a presentation on trial evidence before the 2009 NCDD Winter convention in the Bahamas. He is certified in National Highway Traffic Safety Administration Standardized Field Sobriety Testing. Mr. Mishlove is also a past member of the Drunken Driving Defense Committee of the National Association of Criminal Defense Lawyers.

Kirk B. Obear is the owner and sole proprietor of Kirk Obear, Attorney at Law, a firm exclusively practicing in the areas of criminal defense and military law. Prior to opening his own firm, he was a shareholder in Melowski, Obear & Cohen, S.C.. Before moving to Wisconsin, Mr. Obear was a member of the United States Air Force for over 10 years. He enlisted in the United States Air Force in 1986, and was trained as an imagery production specialist at Lowry AFB, Colorado. He was then stationed at Seymour-Johnson AFB, North Carolina, where he became the

NCOIC of Personnel at the Armament Recording Program Laboratory. In 1990, he graduated from Mount Olive College, *summa cum laude*, with a Bachelor of Science in Psychology. During Operation DESERT STORM, Sergeant Obear was deployed to Al Kharj, Saudi Arabia to document Air Operations as part of the Joint Services Combat Camera Team.

In 1991, Sergeant Obear separated from active duty to attend law school. In 1994, Mr. Obear received his law degree from the University at Buffalo School of Law, and then re-entered active duty as an officer in the United States Air Force. While stationed at Scott AFB, Illinois, Captain Obear served as Chief of the Labor Law Division, Chief of the Claims Division, and Chief of Military Justice in the Office of the Staff Judge Advocate. His primary responsibility was prosecuting military defendants on behalf of the United States. In 1996, he received an appointment as Special Assistant United States Attorney for the Southern District of Illinois. In 1997, Captain Obear was selected to attend Criminal Advocacy School at the Attorney General's Institute in Washington D.C.. He was subsequently assigned as Area Defense Counsel, Peterson Air Force Base, Colorado, where he was responsible for representing military defendants stationed in Greenland, Australia, and military installations throughout Colorado. He continued defending military clients until April of 1999, when he left active-duty to join the Law Offices of Barry S. Cohen. In 2008, he opened his own firm and his practice is currently exclusive in the representation of defendants facing criminal charges in state and federal court.

Mr. Obear's military awards include the John Levitow Award, the National Defense Service Medal, the Kuwait Liberation Medal (Govt of Kuwait), the Kuwait Liberation Medal (Kingdom of Saudi Arabia), the Outstanding Unit Award (x2) w/ Valor Device, the Southwest Asia Medal w/ 2 Campaign Devices, the Air Force Commendation Medal (x2), and the Meritorious Service Medal. He is currently admitted to practice before the Court of Appeals for the Armed Forces, the Air Force Court of Criminal Appeals, the United States District Court for the Southern District of Illinois, the United States District Courts for the Eastern and Western Districts of Wisconsin, the United States Court of Appeals for the 7th Circuit, and the Supreme Court of the United States.

Mr. Obear is a life member of the National Association of Criminal Defense Lawyers (NACDL) and serves as the Director of Legislative Affairs for the Wisconsin Association of Criminal Defense Lawyers (WACDL). He has been a board member of WACDL since 2003. In 2005, Mr. Obear was elected President of WACDL for a two year term. In both 2007 and 2008, he listed in Wisconsin Super Lawyers, a distinction reserved for only the top 5% of attorneys in the state. In April 2009, Mr. Obear was nominated to the Board of Directors for NACDL.

Timothy J. Pierce is Ethics Counsel for the State Bar of Wisconsin. He received his undergraduate degree from the University of Wisconsin–Madison and his law degree from the University of Wisconsin Law School. Mr. Pierce was previously a Deputy Director at the Office of Lawyer Regulation. He has also been employed as the Ethics Administrator for Milbank, Hadley, Tweed & McCloy, in New York, and as an Assistant State Public Defender in Racine. He is a member of the State Bar of Wisconsin. He is a frequent speaker on matters of professional ethics.

John Schiro is a partner at the Schiro & Zarzynski law firm. Attorney Schiro has been practicing law since 1980 and exclusively practices criminal and traffic defense. He has conducted hundreds of jury trials in counties throughout the State of Wisconsin, including over one hundred jury trials specifically for drunken driving and OWI-related cases. He is a frequent lecturer on drunken driving issues. Attorney Schiro is a member of the National Association of Criminal Defense Lawyers, as well as the Wisconsin Association of Criminal Defense Lawyers.

Heather Stapula is the Program Coordinator at Alcolock Michigan, a subsidiary of Alcohol Countermeasure Systems Corp (ACS), a leading manufacturer of alcohol interlocks and breath testing equipment. Heather has been affiliated with the interlock industry for 9 years. Heather's current position at Alcolock Michigan will provide her with the opportunity to expand her knowledge of alcohol interlocks and their road safety benefits in other North American jurisdictions.

Michele A. Tjader of Tjader Law, Inc. is located in Madison and practices statewide in the areas of criminal and traffic defense.

Michael C. Witt is in private practice in Jefferson, Wisconsin. Earning an Associate Degree in Biology in 1980, he worked in blue collar/technical positions at the University of Wisconsin Hospital and Clinics, and the University of Wisconsin Biochemistry Department. After enlisting in the Army Reserve, he then resumed study at the University of Wisconsin for degrees in History and History of Science and Law.

In addition to being trained in the administration of the NHTSA Standardized Field Sobriety Test battery, and completing the NHTSA Faculty Development Workshops at the National Judicial College, Attorney Witt has lectured on aspects of handling scientific evidence in the context of OWI cases. In February of 2003, he was accepted as a provisional member of the American Academy of Forensic Sciences.

Serving on the board of Directors of the Wisconsin Association of Criminal Defense Lawyers, Attorney Witt is also a member of the State Bar of Wisconsin, the Jefferson County Bar Association, the American Bar Association, and the National Association of Criminal Defense Lawyers. He is admitted to practice before all state and federal courts in the State of Wisconsin, as well as the 7th Circuit U.S. Court of Appeals and the United States Supreme Court.

Tracey A. Wood is a shareholder with the Madison, Wisconsin criminal defense firm of Van Wagner & Wood, S.C. She is the president of the Wisconsin Association of Criminal Defense Lawyers and is a past president of the Dane County Criminal Defense Lawyers Association. Tracey was also Wisconsin's first attorney appointed to the board of regents for the National College for DUI Defense (as well as the first female lawyer and youngest member ever to serve on the board). Tracey was Wisconsin's first attorney certified as a standardized field sobriety test instructor. She is a contributing author of "Drunk Driving Defense" by Lawrence Taylor and Steven Oberman and is currently writing "Wisconsin Dui Defense: The Law & Practice" along with attorney James Nesci out of Arizona. She is a frequent speaker at and organizer of national seminars related to the defense of drunk driving cases.