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Florida Association
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Eyewitness Identification Litigation Training for Florida Defenders

January 27, 2012

Renaissance Orlando Airport Hotel

Eyewitness identification evidence is the most frequent cause of wrongful convictions, present in 75 percent of the 274 DNA-based exonerations nationwide. Scientific research on eyewitness identification has shown that although jurors find eyewitness identification testimony among the most compelling evidence of guilt – even when the witness is seriously discredited, eyewitness evidence is still one of the least reliable forms of evidence in criminal cases. Florida uses a more than 30-year-old test to evaluate the reliability and admissibility of eyewitness evidence, despite robust scientific research on eyewitness identification and memory demonstrating this test's inadequacy for keeping unreliable identifications out of criminal trials and preventing wrongful convictions. Florida needs a new legal architecture for evaluating the admissibility and reliability of identifications and Florida's defender community is the only group that can consistently litigate this issue to perpetuate this change.

This full-day litigation training for Florida defenders will provide a comprehensive primer on the social science research in the area of eyewitness identification and memory; a thorough examination of the current, inadequate test for evaluating identifications; litigation tools for attacking the admissibility, reliability and weight assigned to identifications at all stages of the criminal trial; and a discussion of how renewed litigation efforts can usher in a new and more appropriate due process standard for evaluating the admissibility and reliability of eyewitness evidence. A distinguished group of lawyers, experienced in providing similar trainings in other states, will surely make this a seminar that no defender should miss.

Schedule

- 8:20-8:30 **INTRODUCTORY REMARKS**

- 8:30-10:00 **SCIENCE OF EYEWITNESS IDENTIFICATION**
 Lisa Hasel, Phd, Assistant Professor
 University of Florida, Gainesville, FL

- 10:00-10:10 **BREAK**

- 10:10-10:55 **CURRENT LEGAL ARCHITECTURE FOR EVALUATING EYEWITNESSES IDENTIFICATIONS**
 Karen Newirth, Esq., Eyewitness Identification Fellow
 The Innocence Project, New York, NY

- 10:55-11:05 **BREAK**

- 11:05-12:30 **STORYTELLING, THEMES AND THEORIES FOR OPENING AND CLOSING ARGUMENTS**
 James Doyle, Esq.
 Carney & Bassil, Boston, MA

- 12:30-1:45 **LUNCH ON OWN**

- 1:45-2:30 **INVESTIGATION, DISCOVERY AND USE OF EXPERTS**
 Seth Miller, Esq., Executive Director
 Innocence Project of Florida, Tallahassee, FL

- 2:30-4:00 **MOTIONS AND TRIAL SKILLS**
 Tim O'Toole, Esq., Partner
 Miller Chevalier

- 4:00-4:15 **BREAK**

- 4:15-5:30 **WORKING TOWARDS A NEW LEGAL ARCHITECTURE FOR EVALUATING RELIABILITY
AND ADMISSIBILITY OF EYEWITNESS IDENTIFICATIONS**
 Barry Scheck, Esq., Co-Director & Co-Founder
 The Innocence Project, New York, NY

It is anticipated that this course will be approved by The Florida Bar for 8.5 hours of Continuing Legal Education credit

Hotel

Renaissance Orlando Airport Hotel
5445 Forbes Place, Orlando, FL 32812

For Room Reservations
call 407/240-1000

You must say "Eyewitness ID Seminar" to get
the special group rate of \$134 single/double

Deadline for room reservations is
Monday, January 2, 2012.

After that date, rooms are
on a space available basis only.

Faculty

BARRY SCHECK is the co-founder and co-director of the Innocence Project. Barry Scheck, along with Peter Neufeld, have used DNA technology to free innocent people wrongly convicted throughout the country. Mr. Scheck has litigated and taught extensively in both the “hard” and the behavioral sciences. Through his work and the work of the Innocence Project, Mr. Scheck has raised public awareness of and sought to bring about change in the systemic problems in the criminal justice system, including seeking reform of police procedures and instituting other safeguards against misidentification which is one of the leading causes of wrongful conviction.

JAMES M. DOYLE is an attorney with Carney & Bassil, Boston. Mr. Doyle co-authored, with Elizabeth Loftus, *Eyewitness Testimony: Civil and Criminal*, the leading treatise for lawyers confronting eyewitness trials. He is also the author of numerous scholarly articles on evidence, expert testimony, and capital litigation and *True Witness: Cops, Courts, Science and the Battle Against Misidentification*.

TIMOTHY P. O'TOOLE is a partner at the law firm of Miller and Chevalier where he defends individuals and companies in white-collar criminal prosecutions. Prior to joining Miller & Chevalier, Mr. O'Toole served as the Chief of the Special Litigation Division of the Public Defender Service for the District of Columbia and as Assistant Federal Public Defender in Las Vegas, Nevada.

Mr. O'Toole has litigated extensively in the criminal and civil justice systems at all stages of the proceedings. His experience includes representing parties and amici curiae before the United States Supreme Court in an eyewitness identification case (*Perry v. New Hampshire*), a Fourth Amendment case (*Hudson v. Michigan*), cases involving the Sixth Amendment right to confront witnesses (*Briscoe v. Virginia*; *Melendez-Diaz v. Massachusetts*; *Davis v. Washington*; and *Hammon v. Indiana*), and cases involving federal court jurisdiction (*Slack v. McDaniel*; *Whorton v. Bockting*; *Muhammad v. Close*; and *Rumsfeld v. Padilla*). He has also written and lectured extensively on the subjects of eyewitness identification, the constitutional right to disclosure of exculpatory evidence, the constitutional right to be confronted with witnesses, defense of capital cases, defense of white collar cases, working with expert witnesses, and appellate practice and procedure.

LISA HASEL, PhD is an Assistant Professor of Psychology and Law in the department of Sociology and Criminology & Law at the University of Florida, in Gainesville, Florida. Dr. Hasel's area of expertise is the social influences on the criminal investigation process. She researches ways to improve the diagnostic value of eyewitness, interrogation, and alibi evidence. She has published many articles in journals such as *Psychological Science*, *Current Directions in Psychological Science*, and *Law and Human Behavior*. Before joining the faculty at the University of Florida, Dr. Hasel was post-doctoral scholar at Iowa State University where she traveled between four universities to maintain and enhance research collaborations between psychology and law research labs at those institutions. She also served as the Social Psychology Research Fellow at the Innocence Project, in New York.

KAREN A. NEWIRTH is the Eyewitness Identification Litigation Fellow at the Innocence Project. In that role, Ms. Newirth addresses the leading cause of wrongful convictions by working with lawmakers, law enforcement, judges and lawyers to improve eyewitness identification procedures while working to reform the legal framework through which eyewitness identification evidence is evaluated. Prior to joining the Innocence Project, Ms. Newirth was a criminal defense lawyer in private practice, most recently with Brafman & Associates, P.C. She is a member of NYSACDL's Board and also chairs the Criminal Law Committee of the Association of the Bar of the City of New York.

SETH MILLER is the Executive Director of the Innocence Project of Florida, where he litigates postconviction DNA cases, supervises the Project's internship program, and regularly lectures to students, lawyers, and community groups on issues related to wrongful convictions. He also teaches Postconviction Remedies as an adjunct professor at the Florida State University College of Law. Before joining the Project in 2006, Mr. Miller served as a project attorney with the American Bar Association Death Penalty Moratorium Implementation Project in Washington, D.C., and as a staff attorney with the First District Court of Appeal in Tallahassee, Florida.



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REGISTRATION

To register, return this form with the appropriate fee to:
FACDL, P.O. Box 1528, Tallahassee, FL 32302
 or Fax credit card payment to: 850/385-6715 or Register online at www.facdl.org
 NO TELEPHONE REGISTRATIONS, PLEASE.

NAME _____

PHONE _____ FAX _____ EMAIL _____

BUSINESS STREET ADDRESS OR P.O. BOX _____

CITY _____ STATE _____ ZIP _____

✕ THIS SECTION MUST BE COMPLETED

**Course materials will be provided in the following formats.
 Please check the appropriate option:**

- CD onsite** at the seminar
- Thumb drive** onsite at the seminar
- Downloadable** prior to the meeting – password to be provided by January 23, 2012

PAYMENT:

- Private attorneys** \$125
- Public Defenders** \$50
- Enclosed is my check payable to the Florida Association of Criminal Defense Lawyers, Inc., or please charge as indicated below:
 -
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 - Billing address is same as above.

CARD NUMBER _____ EXP. DATE _____

NAME ON CARD _____ SIGNATURE _____

REFUND POLICY:

Tuition refund less a \$25 administrative fee will be made for cancellation received in writing by January 20, 2012. No refunds will be made after that time.



Register Now!
 SCAN THIS CODE

Procedure for CLE Course Materials

CLE course materials will be provided on CD, thumb drive and downloadable from the FACDL website. Attendees are encouraged to bring laptops to this seminar to view course materials during speaker presentations. Plenty of power strips will be provided for plugging in laptops.

For those attendees who strongly prefer printed materials, an option will be provided to download course materials ahead of time and print them if desired. The materials will be password protected and available on the FACDL website for a specified amount of time for paid, attendees only. No refunds will be given once the materials have been downloaded, and CLE course number will be provided only when attendees sign-in on-site at the seminar.

Please check the appropriate options on the registration form.