



*The Florida Association of
Criminal Defense Lawyers*

presents

Blood, & Breath Tears XIX

**A SEMINAR FOR
THE DUI PRACTITIONER**

September 20-21, 2012

Approximately 12.5 CLE Hours

*Hilton in the Walt Disney World Resort
Lake Buena Vista, Florida*



**FLORIDA ASSOCIATION OF
CRIMINAL DEFENSE LAWYERS**

Post Office Box 1528
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DUIS

**MAKE ROOM RESERVATIONS
BY AUGUST 29, 2012!**

REGISTRATION

BLOOD, BREATH & TEARS XIX

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 _____

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THIS SECTION MUST BE COMPLETED:

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

- 1 CD onsite at seminar 2 Thumb drive onsite at seminar 3 Downloadable prior to the seminar – password to be provided by September 14, 2012

- FACDL Members \$355
 Non-FACDL Members \$425
 Public Defenders (Non-FACDL Members) . . . \$305

Check here if you do not want \$10 of your registration fee to be contributed to the FACDL Political Action Committee (FAIRLAWS). This contribution does not affect the total amount of your registration and is not tax deductible.

PAYMENT

Enclosed is my check payable to the Florida Association of Criminal Defense Lawyers, Inc., or please charge as indicated below:

-    

Billing address is the same as above.

CARD NUMBER _____ EXP. DATE _____

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FOR THOSE UNABLE TO ATTEND THE SEMINAR

Course Materials for CLE Credit.....\$370.63

Choose Audio Format: MP3 CD

Course material prices include sales tax, shipping and handling, all written materials and information for posting Continuing Legal Education Credit online with The Florida Bar.

REFUND POLICY

Tuition refund less a \$25 administrative fee will be made for cancellation received in writing by September 4, 2012. No refunds will be made after that time.

MAIL completed registration form with credit card detail OR check payable to:
Florida Association of Criminal Defense Lawyers • Post Office Box 1528 • Tallahassee, Florida 32302-1528
—or—
or FAX completed registration form with credit card detail to: 850/385-6715.
—or—
or REGISTER ONLINE at www.facdl.org

Blood, & Breath Tears XIX

It is anticipated that this course will be approved by The Florida Bar for 12.5 hours of Continuing Legal Education credit.

THURSDAY • SEPTEMBER 20, 2012

12:55 - 1:00

Introduction and Opening remarks

MITCH STONE, ESQ.

1:00 - 1:45

Approval Issues Concerning the Intoxilyzer 8000

ROBERT HARRISON, ESQ.

1:45 - 2:30

New Rules Issues Related to Breath and Blood

STUART HYMAN, ESQ.

2:30 - 2:45

Networking Break

2:45 - 3:30

Attacking Blood Results in DUI cases

MIKE SNURE, ESQ.

3:30 - 4:15

Expert Challenges to the State's Scientific Evidence

STEFAN ROSE, MD

4:15 - 5:00

Effectively Using an Expert at Trial: Panel Discussion

JAY ZAGER, Forensic DUI Consultant; MATT MALHIOT, Forensic Alcohol Consulting & Training, LLC; STEVEN DANIELS, DUlundo Consultants, LLC.
Moderator: MITCH STONE, ESQ.

5:00 - 6:30

Cocktailology and Networking at the hotel bar

FRIDAY • SEPTEMBER 21, 2012

8:25 - 8:30

Introduction and Opening Remarks

MITCH STONE, ESQ.

8:30 - 9:15

DUI Case Law Update

EILAM ISAAK, ESQ.

9:15 - 10:00

DMV Hearings as a Tool for Trial

DAVID ROBBINS, ESQ. & SUSAN COHEN, ESQ.

10:00 - 10:15

Networking Break

10:15 - 11:00

Pretrial Motions

HAL SCHUHMACHER, Esq. & LASONYA LACY O'CONNELL, Esq.

11:00 - 11:45

Creative Evidence Gathering

MICHAEL CATALANO, ESQ.

11:45 - 1:00

Lunch on Your Own

1:00 - 1:45

Winning Jury Selection Techniques

JANET JOHNSON, ESQ.

1:45 - 2:30 Cross Examining the Arresting Officer

ROBERT REIFF, ESQ.

2:30 - 3:15

Using the Intoxilyzer Operator and Inspector to Your Advantage

LEE LOCKETT, ESQ.

3:15 - 3:30

Networking Break

3:30 - 4:15

Defense Case Considerations

CARLOS CANET, ESQ.

4:15 - 5:00 Creative Closing Arguments that Work

DAVID KATZ, ESQ.

This year **BLOOD BREATH & TEARS XIX** will focus on the **DUI jury trial**. We have lined up a faculty of seasoned **DUI defense lawyers and experts** from around the state of Florida who are known for their successes in the courtroom. Of course, **Thursday** is the "science" day which will feature speakers who will provide detailed analysis of **breath and blood testing issues for DUI defense lawyers who are interested in learning the finer points of scientifically defending against breath and blood results in DUI cases. That day will also feature an expert panel discussion on the best methods of using expert testimony to counter breath test evidence in jury trials. Day two, Friday, will feature a full day of the speakers who will share their winning techniques in all phases of the DUI jury trial. This seminar is intended for DUI defense lawyers of all experience levels. The information that will be provided will be invaluable to those practitioners who want to develop their trial practice skills in DUI cases.**

Carlos A. Canet began his legal career with the Public Defender in Miami. He joined the law firm of Essen & Essen, then opened his own office in 2006. His motion excluding all field sobriety exercises in Broward County led to the opinion in *State v. Meador* and his motion to exclude breath test results based on use of tap water to check Intoxilyzer calibration led to the decision in *State v. Cubic*. He maintains his office in Fort Lauderdale where he is working on *Pattern DUI Defenses*, due to be released in 2012.

Michael A. Catalano, a sole practitioner in Miami since 1987, graduated from the University of Florida and Stetson University College of Law. His interests include special participation in the Federal DUI Task Force, which he offered expertise through training, organizing and helping implement the DUI indium crimper breath collection system in Dade County. He has been featured in *The Miami Herald* and CBS's *48 Hours*, mostly about DUI and police misconduct issues and cases.

Susan Cohen's specializes in appellate and postconviction relief including appeals of administrative driver's license suspensions. She began her career in the State Attorney's Office in Gainesville, then went into private practice in Roanoke, Virginia, focusing on criminal defense both in state and federal court. She spent two years in the Commonwealth Attorney's Office prosecuting a broad range of criminal cases before moving to the State Attorney's Office in Jacksonville in 1996. She joined Epstein and Robbins in 2000.

Stephen F. Daniels of DUlundo Consultants holds a certificate from the Florida Department of Law Enforcement as a breath test operator and agency inspector, the same certification that law enforcement requires for collecting evidence to be used as state's evidence in prosecution for DUI arrests. As an expert witness, he looks for problems with the Intoxilyzer 8000 that defendants are tested on and for procedural errors by breath test operators and agency inspectors.

Robert N. Harrison, Esq. is a sole practitioner in Venice. He focuses on DUI defense and has been at the forefront of the Intoxilyzer Source Code litigation in Florida. He spent four years as an Assistant State Attorney in Hillsborough County before joining the Venice firm of Kanetsky, Moore & DeBoer then opening his own practice. He is a FACDL Director at Large and a former President of both the Sarasota Chapter of FACDL and the Venice-Englewood Bar Association.

Stuart I. Hyman, a sole practitioner, has practiced in the criminal and DUI law for 30 years. He is admitted to practice before the United States Supreme Court, Eleventh Circuit United States Court of Appeals and the United States District Court. He has lectured for The Florida Bar, FACDL and private seminar companies in the area of DUI. He has extensive litigation experience in the area of criminal law and DUI defense. He has been recognized in *Florida Trend's* "2010 Florida Legal Elite" publication in the area of criminal law.

Eilam Isaak is the sole partner in Isaak Law, PLLC, in Tampa. He has practiced law for the past 20 years, beginning as a prosecutor with the Seminole County State Attorney's Office. As an Assistant State Attorney, he received from MADD the Award of Excellence as the top DUI Prosecutor for the Seminole County State Attorney's Office for three years. During his tenure as an Assistant State Attorney, he handled many high-profile DUI prosecutions. As a defense attorney for the past 15 years, he practices exclusively in the area of DUI defense. He is a certified breath test operator for the Intoxilyzer 8000 for Federal DOT standards and has been accepted and permitted to testify as an expert witness on the Intoxilyzer 5000.

Janet Johnson graduated from Connecticut College and worked at *Rolling Stone* magazine before going on to earn a law degree from the University of Oregon School of Law. She focuses on criminal law services, including traffic offenses, white collar crimes, drug offenses, sex offenses, major felonies, robbery, burglary, misdemeanors, juvenile cases and probation violations. She is considered a leading source of legal information and has been interviewed as a legal expert on television for CNN, HLN and First Coast News in Jacksonville, and NPR radio.

David Katz is a founding partner of Katz & Phillips, P.A. A former Assistant State Attorney and DUI/Intoxilyzer Specialist with the Seminole County State Attorney's Office, he received unique training and experience with the Intoxilyzer 8000, including access to the manufacturer of the device, which he now uses to aid in the defense of DUI cases. He has focused his practice on DUI defense and has played a key role in the suppression of hundreds of Breath Test results in Central Florida and surrounding areas, acting as the lead attorney in suppression hearings focusing on source code and machine malfunction issues.

Lee Lockett graduated from Florida State University and St. Thomas University School of Law. He worked at the State Attorney's Office for the Fifteenth Judicial Circuit, as an Assistant State Attorney and later as a Division Chief in County Court Division E where he supervised all attorneys in that division and made DUI filing decisions. After leaving the State

Attorney's Office, he served with the Public Defender's office and received the prestigious "ROC" Award for trial advocacy.

Matthew Malhiot has served as an expert in thousands of DUI cases over 30 years. He was on the committee that wrote the Florida Law Enforcement Academy curricula on DUI enforcement, and has taught all areas of forensic alcohol toxicology and DUI enforcement to judges, attorneys and law enforcement. He has worked with the National Highway Traffic Safety Administration (NHTSA) and Florida Department of Law Enforcement. He has also completed the operator, maintenance and instructor certification courses offered by CMI on both the Intoxilyzer® 5000 and 8000, and the NHTSA's instructor-level course work in Standardized Field Sobriety Testing.

LaSonya Lacy O'Connell was an associate with the law firm formerly known as Hersch & Talisman, P.A., where she worked alongside former attorney and FACDL Past President Richard Hersch. She is now an associate at the Law Offices of Hal Schuhmacher, P.A., which serves clients in all of the Florida Keys in both criminal trial and appellate law. She has devoted her practice to criminal and DUI defense. She has successfully represented numerous clients in hundreds of administrative license suspensions hearings before the Department of Highway Safety & Motor Vehicles. She serves as Secretary of the Monroe County Chapter of FACDL.

Robert S. "Bobby" Reiff is author of *Drunk Driving and Related Vehicular Offenses*. He received the top rating in a *Miami Herald* blind study of the most effective DUI advocates in South Florida. He is on the editorial board of the *DWI Law & Science Journal* and has been named one of the Best Lawyers in America for his handling of DUI cases. He has been recognized as a "Preeminent Lawyer" by the Bar Register of Preeminent Lawyers, an "exceptional" criminal defense attorney by the *Consumer Guidebook of Law and Leading Attorneys* and one of the "Best of the Bar" by the *South Florida Business Journal*.

David M. Robbins earned undergraduate and law degrees from the University of Florida. Upon graduation from law school, he worked as an Assistant State Attorney in Jacksonville for three years and entered the private practice of law, establishing the law firm of Epstein & Robbins. He has specialized in DUI defense and criminal law for the past 35 years. He has lectured for The Florida Bar at the Masters of DUI Seminars from 1994 to present, the Blood Breath and Tears seminar for the last several years and FACDL, as well as other seminars.

Stefan Rose, M.D. practices forensic toxicology and psychiatry in both criminal and civil cases. He started the first DUI lab at the University of Miami. He is fully versed in collection, transport, storage and analysis of forensic blood samples. In the mid-1990s he studied the Intoxilyzer 5000 series and has performed two graduate research projects on those instruments. He performed research used in the Tap Water Motion in Broward County in 2005, spearheaded by defense attorney Carlos Canet. He has researched false positive response to volatile organic compounds found in human breath with the Intoxilyzer 8000 and studied narcotics detector canine reliability,

forensic reliability of breath ethanol testing and blood ethanol testing, and effects of ethanol on eyewitness memory.

Hal Schuhmacher served in the Palm Beach County Public Defender's Office, and as an Assistant Public Defender for Monroe County, first in Key West then as managing attorney for the Marathon Office. In 1999 he joined Cunningham, Miller, Heffernan, Hamilton & Wolfe and in 2002 established his own firm, practicing almost exclusively in the criminal courts throughout the Florida Keys. He was the charter member of the Monroe County Chapter of FACDL and has served on the Board of Directors of the statewide FACDL since 2000, either as a Chapter Representative or Director at Large. In 2000 and 2002 Hal was awarded FACDL's Extra Mile Award for his contributions to FACDL. He began and moderated the first four sentencing seminars for FACDL, "Showcase on Sentencing in Florida."

Michael J. Snure has practiced in Winter Park since 1982, nearly exclusively defending those accused of crimes in state and federal court, from traffic charges to homicide allegations. He also represents lawyers and judges on misconduct allegations as well as doctors and others before professional disciplinary boards. For seven years he wrote "DUI Notes" for *The Florida Defender* and the "Criminal Law" column for the *Florida Academy of Trial Lawyers' Journal*. He is a Founding Member of The National College for DUI Defense. A former FACDL President and graduate of Leadership Orlando, he was named an Outstanding Young Man of America in 1988. He has been a consultant for *ABC World News Tonight* and *Nightline*.

Mitchell A. Stone, a graduate of the University of Florida College of Law, is the senior partner of Stone Lockett P.L., a North Florida law firm focusing on state and federal criminal defense. He is Florida Bar board certified in criminal law/trial. He is a former assistant state attorney and has been in private practice concentrating on criminal defense since 1992. He has conducted over 150 criminal jury trials in both federal and state court.

Jay Zager is a DUI/DWI forensic alcohol consultant and a retired Broward County Sheriff's Office DUI Task Force Deputy Sheriff and breath alcohol testing program coordinator. He helped write DUI Intoxilyzer curriculum manuals used for breath test operators and inspectors in Florida. He was the government's DUI consultant for impaired driving breath alcohol cases before he retired from law enforcement. He is a criminal investigator and DWI/DUI/OUI expert in breath alcohol testing, standardized field sobriety testing, dram shop litigation, portable breath testing and alcohol ignition interlock, among others. He has provided training or has lectured for the American Bar Association, the National College for DUI Defense's seminar conducted at Harvard Law School, MADD, SADD and many others.

SUBSTITUTION/CANCELLATION POLICY

If you cannot attend the seminar a colleague may take your place. You may cancel your reservation if your cancellation is received in the FACDL office by Friday, September 4, 2012. After the September 4th deadline, you may request the course materials for Blood, Breath & Tears and you will receive full credit from The Florida Bar. If you cancel your reservation and do not wish to receive course materials, your refund will be subject to a \$25 processing fee.

HOTEL INFORMATION

Hilton
in the Walt Disney World® Resort
407/827-4000

ROOM RATES*
\$159 single/double

ROOM RESERVATIONS

407/827-4000
You must say "Blood Breath & Tears" to get the special group rate of \$159* single/double.

Deadline for Room Reservations is Monday, August 29, 2012.

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



NEW POLICY FOR CLE COURSE MATERIALS

CLE course materials will be provided on CD for all future FACDL seminars. 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.

ORDERING COURSE MATERIALS AFTER THE SEMINAR

The procedure has not changed for those who are unable to attend the live presentation. FACDL will audio record the seminar, and you will have the option of ordering the audio recording plus course materials on CD to receive full CLE credit from The Florida Bar.

Please check the appropriate options on the registration form.