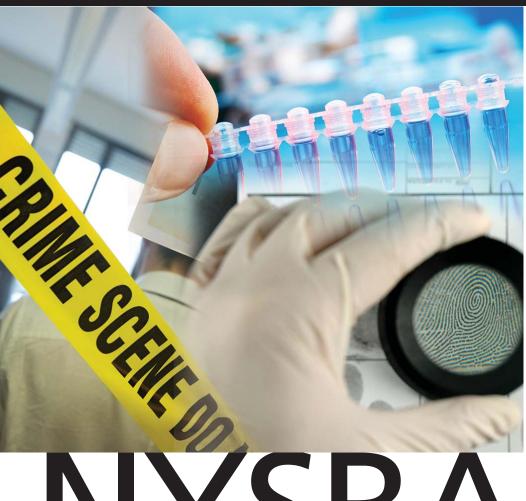
# NEW YORK STATE BAR ASSOCIATION



Section Chair Hon. Mark Dwyer Brooklyn, NY

Program Co-Chairs Hon. (ret.) Phylis S. Bamberger New York City

Marvin E. Schechter, Esq. Marvin E. Schechter Law Firm New York City

# NYSBA

# **Criminal Justice Section**

Fall Meeting

# Forensics and the Law III

Tishman Auditorium, NYU School of Law Vanderbilt Hall, 40 Washington Square South New York City

**Friday, October 25** 8:30 a.m. - 5:15 p.m.

**Saturday, October 26, 2013** 8:30 a.m. - 12:05 p.m.

Under New York's MCLE rule, this program has been approved for a total of up to 11.5 MCLE credits: 6.5 in the area of professional practice, 4.0 in the area of skills and 1.0 in the area of ethics and professionalism and has been approved for all attorneys including those newly admitted.



### SCHEDULE OF EVENTS

Forensic evidence impacts the entire spectrum of civil and criminal litigation touching upon issues of importance to all practitioners. Recent developments since the publication of the groundbreaking National Academy of Sciences Report in February, 2009, affect not only the investigation stage of cases but matters extending to laboratory accreditatation and the methods of testing used by forensic technicians, pre-trial litigation strategy, deciding what experts to utilize, the timing of forensic evidence challenges and the placing of limitations upon testimonial claims. Our program addresses changes in the "old time" forensic disciplines, such as fingerprints and human bite marks, with a special emphasis on developments in the fingerprint discipline. We will examine the "new" sciences such as neurobiology and the potential use of such evidence on issues of responsibility, guilt and sentencing. Evidence produced by forensic science is so different from other evidence; this program will look at the possible changes in ethical and due process obligations of law enforcement officials to uncover and share evidence. Finally the program will include a review of post-conviction proceedings challenging the validity of a conviction when forensic evidence, e.g., the social science implications of identification procedures, is used to obtain a conviction.

# **Thursday, October 24**

5:30 p.m. Meeting of the Criminal Justice Section Executive Committee.

New York County Lawyers Association

14 Vesey Street (between Broadway and Church Street)

New York, NY 10007

Members of the Criminal Justice Section are welcome to attend by RSVP to pjohnson@nysba.org or 518.487.5688 (phone or fax). NYCLA needs 24 hour notice for wheelchair accessibility.

# Friday, October 25

**8:30 a.m. – 8:45 a.m. Registration** (Continental Breakfast will be served)

8:45 a.m. – 9:00 a.m. Welcome & Introductions

9:00 a.m. – 10:15 a.m. The Invincible Fingerprint: Understanding the Basics, Defeating the Myths

**Michele Triplett**, Forensic Operation Manager for the King County Regional AFIS Program in Seattle, WA; **Marvin E. Schechter, Esq.**, Marvin E. Schechter Law Firm, NYC

All you need to know regarding fingerprint formation, the discrimination strength of fingerprints, latent fingerprints, and the comparison process. Additional topics include errors, the ACE-V process, myths and common misconceptions, and scrutinizing fingerprint evidence. Although the topic is in regard to fingerprint evidence, the information given in this presentation applies to all pattern evidence disciplines. The downfalls of presenting motions to exclude and alternative options for admissibility of evidence will be presented.

(1.5 CLE credit in Professional Practice)

10:15 a.m. – 10:30 a.m. Refreshment Break

10:30 a.m. – 11:20 a.m. Litigation Strategies for Pre-Trial Frye Challenges in New York

Chris Fabricant, Esq., Director, Strategic Litigation Innocence Project, Inc.

Using a recent challenge to bite mark analysis evidence ("forensic odontology") as a case example, litigation strategies are discussed for pre-trial Frye challenges in New York, including expanding the relevant scientific community beyond the practitioners themselves, using statistics and probabilities to demonstrate the lack of a validated hypothesis in bite mark and other pattern/impression evidence disciplines, exposing foundational flaws in forensic science jurisprudence to argue against decades of established precedent and using fallback strategies to exclude or narrow the admissibility of the evidence.

(1.0 CLE credit in Skills)

11:20 a.m. – 12:10 p.m. Undoing Forensic Evidence That Resulted in Wrongful Convictions

Professor William Hellerstein, Professor of Law Emeritus, Brooklyn Law School

This presentation will deal with post conviction procedures challenging convictions asserted to be wrongful, with attention both to how forensic evidence was used to obtain the conviction and to show the conviction was wrongful. (1 CLE credit in Professional Practice)

**12:10 p.m. – 1:15 p.m. Break for Lunch** (On your own)

1:15 p.m. – 2:30 p.m. Admissibility Challenges

Michele Triplett, Forensic Operation Manager for the King County Regional AFIS Program in Seattle, WA; Marvin Schechter, Marvin E. Schechter Law Firm, NYC

Reasons why admissibility challenges fail including the downfalls of presenting motions to exclude and alternative options.

(1.5 CLE credit in Skills)

2:30 p.m. – 3:45 p.m. Will There Be A Neurolaw Revolution?

Professor Adam Kolber, Professor of Law, Brooklyn Law School

# SCHEDULE OF EVENTS

## Friday, October 25 (continued)

**Stephen J. Morse, J.D., Ph.D.,** Ferdinand Wakeman Hubbell Professor of Law & Professor of Psychology and Law in Psychiatry Associate Director, Center for Neuroscience & Society Diplomate, American Board of Professional Psychology (Forensic) University of Pennsylvania Law School

Some claim that advances in neuroscience will lead us to stop blaming people for their crimes and punish only to prevent crime and rehabilitate offenders. Others say the influence of neuroscience will be much more limited. After discussing the issues, Professor Kolber will argue that, either way, the criminal justice system will change as a result of new brain-related technologies. Many of these changes are still off in the distance, but courts are beginning to wrestle with some of them.

(1.5 CLE credit in Professional Practice)

3:45 p.m. – 4:00 p.m. Break

4:00 p.m. – 5:15 p.m. The Perils and Promises of Neuroscience for Assessing Criminal Responsibility

**Stephen J. Morse, J.D., Ph.D.,** Ferdinand Wakeman Hubbell Professor of Law & Professor of Psychology and Law in Psychiatry Associate Director, Center for Neuroscience & Society Diplomate, American Board of Professional Psychology (Forensic) University of Pennsylvania Law School

**Professor Adam Kolber**, Professor of Law, Brooklyn Law School (1.5 CLE credit in Professional Practice)

#### Cocktail Reception Immediately After the Friday Program.

### Saturday, October 26

**8:30 a.m. – 9:00 a.m.** Registration (Continental Breakfast will be available)

9:00 a.m. – 10:15 a.m. Anatomy of a Lab Failure: What Happens, What Counsel Should Do and the Role of ASCLD/LAB

Marvin E. Schechter, Esq., Marvin E. Schechter Law Firm, NYC

(1.5 CLE credit in Skills)

10:15 a.m. – 11:05 a.m. An Inside Look at Wrongful Conviction and the Correction of Miscarriage of Justice—DNA,

fingerprint evidence, and ballistic evidence. How wrongful convictions happen and how they get undone

as demonstrated with a case example of forensic evidence.

Robert J. Masters, Esq., District Attorney's Office Queens County

(1.0 CLE credit in Professional Practice)

11:05 a.m. – 11:15 a.m. Refreshment break

11:15 a.m. – 12:05 p.m. Practices and Procedures Regarding Discovery That Affect Forensic Evidence and the Defense

**Practitioner's Ability To Prepare**— Brady violations, the roots of intentional violations, ethical considerations, how to deal with discovery and Brady, New York practices and procedures that undermine Brady (especially on early turnover), judicial involvement, methods of dealing with violations and the impact of the claim that witness'

identifications must be hidden because of danger to them.

Panel Chair: Professor Ellen C. Yaroshefsky, Clinical Professor of Law and Director Jacob Burns Ethics Center,

Benjamin N. Cardozo School of Law

Panelists: Honorable Margaret L. Clancy, Bronx County Supreme Court

Chris Fabricant, Esq., Director, Strategic Litigation Innocence Project, Inc. Robert J. Masters, Esq., District Attorney's Office Queens County

(1.0 CLE credit in Ethics and Professionalism)

12:05 p.m. Adjournment

#### For direction information: http://www.law.nyu.edu/about/visitorinformation/directions/index.htm

#### IMPORTANT INFORMATION

The New York State Bar Association has been certified by the New York State Continuing Legal Education Board as an Accredited Provider of continuing legal education in the State of New York.

**DISCOUNTS AND SCHOLARSHIPS:** New York State Bar Association members and non-members may receive financial aid to attend this program. Under this policy, any member of our Association or non-member who has a genuine basis for his/her hardship, if approved, can receive a discount or scholarship, depending on the circumstances. To apply for a discount or scholarship, please send your request in writing to: Pat Johnson, New York State Bar Association, One Elk Street, Albany, New York 12207; pjohnson@nysba.org; 518.487.5688 phone or fax.

ACCOMMODATIONS FOR PERSONS WITH DISABILITIES: NYSBA welcomes participation by individuals with disabilities. NYSBA is committed to complying with all applicable laws that prohibit discrimination against individuals on the basis of disability in the full and equal enjoyment of its goods, services, programs, activities, facilities, privileges, advantages, or accommodations. To request auxiliary aids or services or if you have any questions regarding accessibility, please contact Pat Johnson, New York State Bar Association, One Elk Street, Albany, New York 12207; pjohnson@nysba.org; 518.487.5688 phone or fax.

#### NEW YORK STATE BAR ASSOCIATION

#### MEETING REGISTRATION FORM

#### PERSONAL INFORMATION

Name\_

Office	
Address	
City/State/Zip	
E-mail Address	
Phone ( )F	ax ()
PROGRAM FEES	
Attorneys with 6 years of practice or mo	ore:
NYSBA Members: \$160 advance \$195 at door	Non-NYSBA Members\$260 advance\$295 at door
Newer Attorneys with 2- 5 years of prace \$140 members in advance \$175 members at door	
New Attorneys with 0-2 years of practice \$40 members and guests in advance \$50 at door members and guests	\$50 non-members in advance
PAYMENT INFORMATION	
☐ Check or money order enclosed in the ar	mount of \$

(Make checks payable to New York State Bar Association.)

☐ MasterCard ☐ Visa Expiration Date: \_\_\_\_\_

Card number:

Authorized Signature \_\_\_\_

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#### **Criminal Justice Section**

Fall Meeting —
"Forensics and the Law III"
October 25-26, 2013

Tishman Auditorium Vanderbilt Hall, NYU School of Law 40 Washington Square South New York City

#### **IMPORTANT INFORMATION**

**Refund Policy:** Notice of cancellation must be received on or before **October 22, 2013** to receive a refund for the registration fee. Please contact sbsc@nysba.org or 1-800-582-2452 to cancel your registration..

Accommodations for person with disabilities: NYSBA welcomes participation by individuals with disabilities. NYSBA is committed to complying with all applicable laws that prohibit discrimination against individuals on the basis of disability in the full and equal enjoyment of its goods, services, programs, activities, facilities, privileges, advantages, or accommodations. To request auxiliary aids or services or if you have any questions regarding accessibility, please contact Pat Johnson at (518) 487-5688

Discounts and Scholarships: New York State Bar Association members and non-members may receive financial aid to attend this program. This discount applies to the educational portion of the program only. Under this policy, any member of our Association or non-member who has a genuine basis for his/her hardship, if approved, can receive a discount or scholarship, depending on the circumstances. To apply for a discount or scholarship, please send your request in writing to: Pat Johnson, New York State Bar Association, One Elk Street, Albany, New York 12207.

#### MAIL OR FAX THIS FORM TO:

State Bar Service Center (SBSC) New York State Bar Association One Elk Street, Albany, NY 12207 Phone: 1 (800) 582-2452

Fax: (518) 463-5993 Email: sbsc@nysba.org For online registration go to: www.nysba.org/crimfall13