

# ANNUAL DRUNK DRIVING DEFENSE SEMINAR

NOVEMBER 13-14, 2017

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. If you have never attended this seminar, just ask any OWI defense attorney you respect – he or she will tell you it's not to be missed.

This year's seminar will focus on several cutting edge issues facing OWI defense attorneys. Whether you have tried 100 cases or see your first trial on the horizon, this seminar offers defense attorneys at every level 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.

Arrive the night before the seminar begins and relax in front of the fireplace at the Welcome Reception sponsored by Smart Start. Food and drinks from 7pm to 10 pm in the beautiful Elk Lounge at the Osthoff.

As is our tradition, at the close of Day One, attendees will once again be invited to the always popular evening social event held at The Paddock Club in Elkhart Lake. 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

### **SUNDAY, NOVEMBER 12**

7:00-10:00 P.M. WELCOME RECEPTION  
SPONSORED BY SMART START

ELK LOUNGE

### **MONDAY, NOVEMBER 13**

7:45 a.m. Registration/Breakfast

8:45 a.m. Welcome/Opening Remarks

- Barry Cohen

8:55 a.m. **ATTACKING PRIOR CONVICTIONS**

- Matthew Murray

- 9:45 a.m. **GETTING DISCOVERY FROM THE CRIME LAB** - *Michael Cohen*
- 10:35 a.m. BREAK
- 10:50 a.m. **ETHICS PRESENTATION:  
WHAT ARE OUR CLIENTS UP TO NOW?  
RECURRING DILEMMAS FOR LAWYERS REPRESENTING  
CLIENTS WITH DRUG AND ALCOHOL PROBLEMS** - *John Schiro*
- 12:05 p.m. LUNCH (provided)
- 12:55 p.m. **RIDING HIGH: THE SCIENCE OF THC IMPAIRED DRIVING  
AND THE AFFIRMATIVE DEFENSE IN OWI-THC  
INJURY/HOMICIDE CASES** - *J. Steven House*
- 1:45 p.m. **DRUGGED DRIVING: THE NEED FOR SPEED  
HOW TO WIN CASES WHEN CLIENTS LOSE CONTROL** - *John Birdsall*
- 2:35 p.m. BREAK
- 2:50 p.m. **DRIVING WITH PRESCRIPTION DRUGS** - *Andrew Mishlove*
- 3:40 p.m. **DEFEATING THE “DRUG RECOGNITION OFFICER:”  
PRACTICAL STRATEGIES FOR ATTACKING A PSEUDOSCIENCE** - *Corey Mehlos*
- 4:30 p.m. ADJOURN
- 5:30 p.m. **SOCIAL EVENT** *at Paddock Club*

## **TUESDAY, NOVEMBER 14**

- 8:15 a.m. Registration/Breakfast
- 9:00 a.m. **CHALLENGING WARRANTS IN OWI CASES:  
OK, SO THEY GOT A WARRANT—NOW WHAT?** - *Adam Welch*
- 9:50 a.m. **CASE LAW/LEGISLATIVE UPDATE** - *Sarah Schmeiser*
- 11:05 a.m. BREAK
- 11:15 a.m. **ADVANCED TOPICS IN BREATH TESTING:  
BREAKING DOWN THE MACHINE, THE DATA, AND  
ATTACKING THE TEST RESULTS** - *Lauren Stuckert*
- 12:30 p.m. LUNCH (provided)
- 1:20 p.m. **CLINICAL TREATMENT OF V.D. (VOIR DIRE, THAT IS)  
MASTERING JURY SELECTION IN OWI CASES** - *Kirk Obear*
- 2:35 p.m. BREAK
- 2:50 p.m. **ADVANCED TRIAL TECHNIQUES** - *Dennis Melowski*
- 4:30 p.m. ADJOURN

## **PROGRAM MATERIALS**

Program materials are voluminous and worth the price of the seminar alone. Materials will be available for download from the internet on November 7. Copies of the CD will be distributed at the seminar. If you require a CD in advance of the seminar, please contact Barry Cohen at 920-565-4225.

## **HOTEL ACCOMMODATIONS**

The Annual Drunk Driving Defense Seminar is held at The Osthoff Resort in Elkhart Lake, WI. Seminar attendees qualify for special lodging rates of \$102.00 for a standard room or one-bedroom suite, or \$149.00 for a two-bedroom suite if reserved not later than October 13, 2017. Book your room directly with The Osthoff Resort at (800) 876-3399. For complete resort information, visit [www.osthoff.com](http://www.osthoff.com).

## **COMMENTS FROM PREVIOUS ATTENDEES**

“This is one of the most beautiful resorts I’ve ever been to.”  
“Fantastic! Love The Osthoff and the Paddock Club.”  
“Very informative. I appreciated being able to follow along on CD.”  
“Very complete”  
“Good outlines”  
“Good pace, answered questions well.”  
“Good issues and materials. Good trial and motion issues.”  
“Great information and the perfect amount of time to give information and take questions.”  
“Always excellent, more Witt!”  
“WOW! Oh so much information!”  
“Great tips on litigation.”  
“Impressive program. I used material in this program to get a 4<sup>th</sup> offense OWI reduced to a 1<sup>st</sup>!”  
“Phenomenal location, great substantive material, well organized format – Thank you!”  
“As a brand new attorney, I found this seminar incredibly helpful; not only for learning technical field of defense against drunk driving but also in developing litigation skills necessary to handle these cases.”  
“Great seminar; BEST one out there!”

## **TUITION REDUCTION**

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, at [barrycohen@barrycohenlaw.com](mailto:barrycohen@barrycohenlaw.com).

## **CONTACT US**

For more information contact Barry Cohen, Program Chair,  
[barrycohen@barrycohenlaw.com](mailto:barrycohen@barrycohenlaw.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** \$450.00  
(Includes breakfast, lunch, snacks, beverages each day, admission to the evening social event, and program materials)

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**PAYMENT**

\_\_\_\_\_ Check Enclosed (Payable to Annual Drunk Driving Defense Seminar)

\_\_\_\_\_ Please Charge \$\_\_\_\_\_ to my  Visa  Mastercard

Credit Card Number \_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_/ Expiration Date \_\_\_\_/\_\_\_\_

Security Code: \_\_\_/\_\_\_/\_\_\_

Print Name As It Appears On Card \_\_\_\_\_

Billing Address: \_\_\_\_\_

Authorized Signature \_\_\_\_\_

Mail or Fax Registration Form to: Annual Drunk Driving Defense Seminar  
N9661 Willow Road  
Elkhart Lake, WI 53020  
Fax: 920-227-2264

## **ABOUT THE PRESENTERS**

**John Birdsall** is one of Wisconsin's most respected criminal defense attorneys. After earning his law degree with honors from the University of Wisconsin Law School he went on to practice at Borgelt, Powell, Peterson & Frauen before beginning his own statewide criminal defense practice in downtown Milwaukee.

After establishing Birdsall Law Offices, S.C., John built his practice by exclusively focusing on defending the wrongly accused, and had made national headlines for his defense of Eddie Gill, who falsely confessed to a homicide he didn't commit. The case was dismissed after John demonstrated that the confession was false and detective had manipulated Mr. Gill.

Although John has many trial and appellate victories, his commitments extend outside of the courtroom. As a current member of both the Wisconsin State Bar Board of Governors and Criminal Law Section Board of Directors, and the past President of the Wisconsin Association of Criminal Defense Lawyers, John has helped develop sentencing guidelines for state judges, served as a member of the Wisconsin Sentencing Commission, and drafted a petition to the Wisconsin Supreme Court to increase the compensation rate for state public defender appointments.

John also lectures and presents CLEs on criminal law topics around the state. He has presented on topics such as warrantless searches, unlawful extensions of traffic stops, drunk driving defenses, coerced confessions, and issues surrounding mass incarceration and the truth-in-sentencing act. You can reach out to him with any questions or comments at [jbirdsall@birdsall-law.com](mailto:jbirdsall@birdsall-law.com).

**Barry S. Cohen** has practiced criminal and traffic defense for over 30 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 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 is a Past 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.

**Michael Cohen** is the Principal/Owner of Cohen Law Offices. He graduated from Dartmouth College in 1988 and received his JD from UW- Madison in 1991. His practice is focused solely on the defense of the accused in all types of criminal matters. His practice is equally devoted to OWI defense and to all other criminal matters. He is one of only four lawyers in WI to be recognized by the Chemical and Law Section of the American Chemical Society as a Lawyer-Scientist. Although he focuses his practice in the trial courts, he has successfully argued in all levels of the WI Courts including the WI Supreme Court.

He is a member of the NCDD (National College for DUI Defense), DUIDLA (DUI Defense Lawyers Association), DUIDLA's Justice Foundation (Board member), NACDL, WACDL (Board member), as well as a Board member and Committee member for a variety of local Criminal Justice and other civic organizations and businesses in his local area in NW WI.

**J. Steven House** is a solo practitioner defense attorney based in Madison, WI handling criminal and traffic defense cases at the trial and appeal. He started his legal career in 2000 as an assistant

public defender in TN at the Knox County Public Defender's Community Law Office for six years prior to passing his second bar exam and moving to Wisconsin. He was the president of the SIU-C NORML chapter for two years while obtaining his undergraduate degree and spent two years on a working tour of the US as a roofer, ski lift operator, table busser, residential painter, along with occasional janitorial stints at a game processor/butcher's shop . He graduated from the University of Illinois Law School with honors and participated in the school's moot court team. His proudest legal victory was for a client whose arrest was included in the News of the Weird and whose unanimous TN Supreme Court appeal overturned the jury verdict on felony charges, resulting in the only published opinion holding that a pellet gun was not a deadly weapon. He has previously presented on the application of HIPPA to criminal defense cases and published an article in The Champion on the use of HIPPA in impaired driving cases which has been reprinted in Drunk Driving Defense by Taylor and Oberman. His hobbies include foraging for mushrooms and edible plants, backpacking, gardening, racquetball and scratch cooking.

**Corey Mehlos** practices primarily criminal defense and OWI cases as an associate attorney at Kaehne, Cottle, Pasquale & Associates, S.C. in Sheboygan, Wisconsin. Prior to that, he served as an associate attorney at Schmitt & Koppelman, S.C. in Merrill, Wisconsin. After graduating from the University of Notre Dame, he attended the University of Wisconsin Law School, where he participated in the Wisconsin Innocence Project.

**Dennis M. Melowski** is the head of Melowski & Associates, LLC in Sheboygan. His practice is exclusively limited to the defense of drunk driving charges.

**Andrew Mishlove** is a senior partner in the firm of Mishlove and Stuckert, LLC. In his thirty-six years of practice, he has tried about 350 cases to the jury. He is the author of Wisconsin OWI Defense, The Law and Practice, the textbook for Wisconsin attorneys. In 2005, he became Wisconsin's first ABA accredited, NCDD board certified specialist in OWI defense. In 2011, he was named as one of 14 Regents to the NCDD. He is the developer and course director for two of America's most advanced courses in forensic science and trial advocacy: Serious Science: Blood Alcohol Analysis, and Serious Science, Blood-Drug Analysis, offered at the Rocky Mountain Laboratory in Fort Collins, Colorado, and the Shimadzu Laboratory at the University of Texas-Arlington. He is a 2014 graduate of the Gerry Spence Trial Lawyers College. He most recently spoke on blood-drug analysis at the NCDD July 2017 Summer Session, presented at the Harvard Law School.

**Matthew M. Murray** has been an associate attorney with Melowski & Associates, LLC in Sheboygan for the past four years. The firm's practice is exclusively limited to the defense of drunk driving offenses. Before joining Melowski & Associates, he was the head of Murray Law, LLC in Green Bay, which was also exclusively dedicated to the defense of drunk driving offenses.

**Kirk Obear** is the owner and sole proprietor of Kirk Obear & Associates, a firm exclusively practicing in the area of criminal defense. 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 has served 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. He was on the Board of Directors for NACDL from 2009-2012. Every year since 2007, he has been listed in Wisconsin Super Lawyers, a distinction reserved for only the top 5% of attorneys in the state.

Along with Attorney Melissa Barrette, Attorney Brett Kaehne, and Paralegal Jennie Cummings, Mr. Obear represents clients all over the State of Wisconsin in criminal matters.

**John Schiro**, of Schiro & Zarzynski in Milwaukee, is the firm's leader in criminal and traffic defense. Defending persons charged with a crime is not only John's profession, but also his passion. He has been a tireless force in the criminal justice system throughout the State of Wisconsin for many years. As an active member in the Wisconsin Association of Criminal Defense Attorneys since its inception, Attorney Schiro is well-known and admired by his colleagues. He is a long-standing member of the National Association of Criminal Defense Attorneys (President's Club Member), was selected to join the National College for DUI Attorneys, has been named a Wisconsin Super Lawyer in Criminal Defense for the last ten years, and is a twice graduate of Axion Training Institute Inc., Analytical Laboratories Inc. Forensic Chromatography Course (2013 and 2014),

**Sarah M. Schmeiser** is an associate at Tracey Wood & Associates since March of 2014, Sarah focuses on criminal and traffic defense as well as handling immigration cases. After graduating with honors from the University of Wisconsin School of Law in December of 2004, Sarah established her own practice. Since that time she has defended clients charged with various criminal and traffic offenses in municipal, state and federal court. She has also represented clients in immigration cases in Chicago's Federal Immigration Court.

Sarah is a member of the State Bar of Wisconsin, the Dane County Bar Association, the National Association of Criminal Defense Lawyers, the Wisconsin Association of Criminal Defense Lawyers, and the National College of DUI Defense. She is NHTSA certified in standardized field sobriety testing. Sarah is working toward completing the Forensic Lawyer-Scientist designation recognized by the Chemistry and the Law Division of the American Chemical Society.

You can reach Sarah at 608.661.6300, fax her at 608.661.6309, or email her at [sarah@traceywood.com](mailto:sarah@traceywood.com). The mailing address is 1 S Pinckney Street, Ste. 950, Madison, WI 53703. The website is [www.TraceyWood.com](http://www.TraceyWood.com)

**Lauren Stuckert** is a partner in the law firm of Mishlove & Stuckert, LLC., located in Milwaukee, Wisconsin. She focuses her practice on complex alcohol and drug operating while intoxicated litigation. She is the Wisconsin State Delegate for the National College for DUI Defense and a member of the DUI committee for the National Association of Criminal Defense Lawyers. In 2016 she became the country's youngest Board Certified Specialist in DUI Defense Law, and joined her law partner, Andrew Mishlove, as the only two attorneys in Wisconsin to achieve this distinction.

**Adam Welch** has spent over a decade exclusively defending people accused of criminal or traffic offenses, first with the State Public Defender, and now with Tracey Wood & Associates in Madison, Wisconsin. Adam handles cases both at the trial level and on appeal, and particularly enjoys finding novel ways to confound the opposition.