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Massachusetts Association of Criminal Defense Lawyers

2018 Advanced Post-Conviction Litigation Seminar

Presenters

HAYNE BARNWELL is a sole practitioner focused on civil and criminal appeals as well as criminal defense in North Andover. She has worked for Shea, LaRocque & Wood (now Shea & LaRocque), Wood & Nathanson and Carney & Bassil. In 2011, Lawyer's Weekly named her an "Up and Coming Lawyer." She is a graduate of Vanderbilt University and Suffolk Law School.

JOE BERNARD is one of the lead lawyers in statewide litigation of *Commonwealth v. Ananias*, which challenges the reliability of the Draeger 9510 breathalyzer. His work in *Ananias* with expert Thomas Workman has lead to a call for sanctions based upon serious discovery violations made by the Office of Alcohol Testing. As a result, District Attorney's Offices across the state have put a temporary moratorium on the use of breath tests as evidence, and the Executive Office of Public Safety and Security conducted an investigation into the discovery practices at the OAT. He and Mr. Workman were recently honored as Lawyers of the Year by Massachusetts Lawyers Weekly for their dedicated and impassioned advocacy in this case.

Attorney Bernard has been practicing for over 20 years. Beginning in the District Attorney's Office, his practice now focuses almost exclusively on representing individuals charged with operating under the influence and other driving related offenses. He has attended the renowned Borkenstein Alcohol and Highway Safety course in addition to other advanced forensic chromatography and drug courses. Attorney Bernard has presented at seminars to educate defense attorneys about the challenges to a breath test and advancing the scientific defense of OUI cases.

THOMAS E. CARTER is a senior staff attorney at the Massachusetts Appeals Court, where he has nearly twenty years of experience with both civil and criminal matters. He leads the court's technology education committee, and has been heavily involved in training court personnel in paperless case practices. A former U.S. Army officer, Mr. Carter earned his bachelor's degree in engineering from Rensselaer Polytechnic Institute and his law degree from the University of Wisconsin.

Brian Flaherty is the Instructional Services Librarian at Boston University Law Library. Before that he was a legal reference librarian at New England Law | Boston, where he had been for over 25 years. In addition to research, his real passion is teaching. He has taught advanced legal research, many first-year research classes, and many research lectures for doctrinal classes. In addition, he has given presentations and programs for the Law Librarians of New England, the New England Law Library Consortium, the American Association of Law Librarians, and the Massachusetts Bar Association (among others). His real claim to fame is that he once keynoted a conference alongside Dr. Ruth Westheimer.

IRA GANT reviews and litigates innocence claims in Massachusetts trial and appellate courts, represents defendants in related habeas petitions in federal court, and authors amicus briefs on forensic and innocence issues. He also supervises, advises, and trains attorneys handling state innocence cases, and is the Innocence Program's liaison to a federally funded Working Group that aims to improve tracking and storage of evidence collected in criminal cases. Prior to joining the Innocence Program, Mr. Gant was a trial attorney in CPCS's Public Defender Division. He also served a rotation with CPCS's Alternative Commitment Unit, representing men the state sought to commit for life as "sexually dangerous persons." A frequent lecturer on issues including post-conviction DNA testing, cognitive bias, and public records, he presently sits on the Innocence Network's Amicus Committee and Complex DNA Working Group. Mr. Gant graduated from Northeastern University School of Law and the University of North Carolina.

JULIE GOLDMAN is an Assistant Clerk of the Massachusetts Appeals Court. She has been working on the Judicial Branch's electronic filing project since 2013 to bring electronic filing to the state courts through drafting the electronic filings rules and working with third-party vendors to develop and implement efilings for the Appeals Court. Prior to her work at the Court, she served as an Assistant Attorney General in the Government Bureau of the Massachusetts Office of the Attorney General handling civil litigation and appeals on behalf of the Commonwealth in both state and federal courts, as an associate of Campbell, Campbell, Edwards & Conroy, and litigation counsel for the Federal Reserve Board. She is a graduate of Boston College Law School and Northwestern University.

ANNE C. GOLDBACH is the director of the Forensic Resources Unit of the Committee for Public Counsel Services in Boston, where she advises public defenders and bar advocates throughout the state. She is involved in developing and presenting in training programs on forensic evidence. She is a member of the state's Commission on Medicolegal Investigations and a non-voting participant in the state's Forensic Sciences Advisory Board. Ms. Goldbach is a board member and past president of MACDL, the Massachusetts Association of Criminal Defense Attorneys. Previously, she was the Attorney in Charge of the Boston CPCS office, and a staff attorney with the Committee's Boston and Roxbury offices and the Massachusetts Defenders Committee. She is a graduate of Boston College Law School and Wellesley College.

DARREN GRIFFIS practices with the law firm of Glickman, Sugarman, Kneeland & Gribouski in Worcester, Massachusetts. His practice focuses almost exclusively on criminal defense and criminal appeals in both state and federal court. He is a member of the CPCS Post-Conviction panel, the Worcester Bar Advocate Program, and the CJA list. Prior to joining GSK&G, Darren was an Assistant Public Defender with the Rhode Island Office of the Public Defender and represented indigent clients facing criminal charges in cities and towns throughout Rhode Island. Darren also previously worked as an associate for WilmerHale, where he focused on criminal defense and government investigations. After he graduated from law school, Darren clerked for the Honorable Michael A. Ponsor in the U.S. District Court in Springfield, Massachusetts

STUART M. HUROWITZ is a Supervising Attorney with the Committee for Public Counsel Service's Office in Worcester (but has also been with CPCS in both Suffolk and Norfolk Counties). He is currently on leave from CPCS while he is a Visiting Professor at Boston College Law School.

REBECCA JACOBSTEIN joined the Appeals Unit of the Committee for Public Counsel Services in April 2014. Before that, she worked as an appellate attorney at the Office of the Appellate Defender in New York City, as a trial attorney at the New Hampshire Public Defender's Office, and as a sole practitioner focusing on post-conviction representation in Massachusetts and federal courts. In 2012, she was named an Up & Coming Lawyer by Massachusetts Lawyers Weekly. In 2017, she apparently arrived, as she was awarded the Access to Justice Defender Award and the 2016 Lawyer of the Year Award for her work in the Amherst Lab litigation - even though at the time she had accomplished absolutely nothing. She has since actually accomplished something and will be telling you about that this afternoon.

LISA M. KAVANAUGH is the director of the Committee for Public Counsel Services (CPCS) Innocence Program, a unit of the statewide public defender agency in Massachusetts that identifies innocence cases and provides litigation support and funding for the investigation and expert resources needed to successfully litigate these cases. In addition to litigating cases and administering Innocence Program resources, Ms. Kavanaugh is actively involved in developing statewide training programs on flawed forensic evidence and other leading causes of wrongful convictions. In 2013, she formed a Working Group of criminal justice leaders to improve access to post-conviction DNA analysis and reform evidence handling practices, and she has been instrumental in securing federal funding to support this work. In 2014, the Working Group's mission expanded to include a pilot review of hair microscopy cases, modeled on the national FBI hair review. Ms. Kavanaugh first joined CPCS in 2002 as a staff attorney in the Somerville Superior Court trial unit. From 2007-2009, she worked in the Appeals Unit and litigated numerous felony appeals. She is a 1996 graduate of Yale University and a 2000 graduate of Harvard Law School. From 2000-2002, she served as a Prettyman Clinical Teaching Fellow with the Criminal Justice Clinic at Georgetown University Law Center. A frequent lecturer at local and national CLE training programs, she has also served as a

Visiting Lecturer of Law at Harvard Law School, an Adjunct Professor with the Boston College Law School Innocence Clinic, and training faculty member for trial skills programs at Harvard Law School. She presently serves on the Supreme Judicial Court's Standing Committee on Eyewitness Identification and on the Board of the Innocence Network.

REBECCA KILEY was named Attorney-in-Charge of the Public Defender Division Appeals Unit at the Committee for Public Counsel Services in February 2018. She graduated from Harvard College and from the New York University School of Law, where she was a Root-Tilden-Kern scholar. She clerked for the Honorable Eric Clay of the United States Sixth Circuit Court of Appeals, and then worked for three years as a law fellow and staff attorney at the Equal Justice Initiative of Alabama. She joined CPCS as a trial attorney in the Roxbury/Dorchester Municipal Court office in 2008, and has been with the Appeals Unit since 2012.

DAVID A.F. LEWIS is the founder of the Cambridge law firm of David A.F. Lewis LLC. His practice has specialized in civil and criminal appeals in state and federal court since 1997. He has presented at multiple appellate CLE seminars and is the author of several articles on appellate advocacy. Mr. Lewis is a graduate of the University of Denver College of Law.

STEVE MAIDMAN is engaged in private practice in Springfield. His practice is devoted primarily to criminal appeals and related collateral proceedings in the state and federal courts. He is on the CPCS post-conviction murder list. He is the 2010 recipient of the CPCS Carol A. Donovan Award for Exceptional Advocacy.

MICHELLE MENKEN is an appellate practitioner concentrating on criminal cases in the Massachusetts and First Circuit courts of appeal. She serves on both the CPCS post-conviction panel for indigent appellants in state court, and the First Circuit's CJA appellate panel for indigent appellants in federal court. She is also available to other attorneys to consult on issue-preservation at the trial level, and for research and writing assignments involving complex or novel issues.

Prior to opening her own office in January 2016, Attorney Menken was a partner at Rankin & Sultan, a criminal litigation and appellate law firm. She appeared regularly in state trial courts, in state and federal appellate courts, and before various administrative agencies and disciplinary bodies as well.

Attorney Menken joined Rankin & Sultan after graduating from Northeastern University School of Law in 1999. While in law school, Michelle's internship employers included the Lawyers' Committee for Civil Rights Under Law, the CPCS Youth Advocacy Project, and the law firm of Stern, Shapiro, Weissberg and Garin. Attorney Menken is a member of the Massachusetts Bar, the U.S. District Court Bar, and the Bar of the U.S. Court of Appeals for the First Circuit. She sits on the Criminal Justice Act Board of the U.S. District Court. She belongs to the Massachusetts Association of Criminal Defense Lawyers and is a lifetime member of the Women's Bar Association

JUDITH MIZNER, chief of the appellate unit for the Federal Defenders since 2006, has briefed and argued three cases in the U.S. Supreme Court, over 50 cases in the First Circuit, and many cases in other circuits and in the SJC. She has also drafted numerous petitions, writs and motions and helped others draft briefs and prepare for oral argument. She is the co-author with Judge Nancy Gertner of *The Law of Juries*.

MICHAEL A. NAM-KRANE specializes in appellate practice and the collateral consequences of criminal convictions. Michael graduated from Northeastern University School of Law in 1995. In 1997 he opened his own practice. In 2007 Michael joined the Committee for Public Counsel Services to coordinate, educate and advise the 100's of private appellate attorney who represent clients in Sex Offender Registry Board and sexually dangerous person litigation. In 2009 Michael reentered private practice.

MAEVE O'CONNOR, LICSW has been a Social Service Advocate in the Committee for Public Counsel Services Public Defender Division Salem District and Superior Court office since 2013. In addition to working with CPCS, Maeve has worked in direct service with survivors of domestic violence and individuals struggling with substance use disorders. She received a B.A. in Psychology from Brandeis University in 2011 and her Masters in Social Work from Boston University School of Social Work in 2013.

LIZ PREVETT is a Research and Writing Attorney for the Federal Public Defender Office in Boston, where she has worked since 1999.

DAVID RANGAVIZ joined the Appeals Unit in 2017. He clerked for Justice Barbara Lenk of the Massachusetts Supreme Judicial Court, Magistrate Judge John Conroy of the U.S. District Court for the District of Vermont, and Judge Kent Jordan of the U.S. Court of Appeals for the Third Circuit. Before joining CPCS, Dave worked as a trial attorney at the Maryland Office of the Public Defender and in private practice at Zalkind, Duncan, & Bernstein LLP. He is a graduate of Harvard Law School and Brown University.

LUKE RYAN is a partner at the Northampton law firm of Sasson, Turnbull, Ryan & Hoose. He concentrates his practice in criminal defense at the trial and appellate level and in civil rights litigation. Luke has published articles on the rights of criminal defendants to access internal affairs files in self-defense cases, challenging search warrants in drug cases, and abusive police interrogation practices. He is active in many community organizations over the years including the Performance Project, Out Now, Arise for Social Justice, Springfield No One Leaves, the Pioneer Valley Workers Center, and Project: Operation Change. In 2016, Luke received the Edward J. Dugan Award for Zealous Advocacy and Outstanding Legal Services to the Poor. In 2017, Massachusetts Lawyers Weekly selected Luke as one of its Lawyers of the Year. In 2018, he received the "Lawyer Award" from the Massachusetts Chapter of the National Lawyer's Guild.

JOE SCHNEIDERMAN still practices criminal and civil appellate advocacy in Massachusetts and Connecticut, variously serving as a "remorseless citation machine" or as "The Big Man" backing up "Bad Scooter" trial counsels. On a more serious note, in 2017, Joe successfully secured the release of three unlawfully detained juveniles.

MATTHEW SPURLOCK joined the Appeals Unit in 2017. He clerked for Chief Justice Ralph D. Gants of the Massachusetts Supreme Judicial Court, and Chief Justice Chase T. Rogers of the Connecticut Supreme Court. Before joining CPCS, Matt was a fellow in Appellate and Constitutional Litigation at Gupta Wessler PLLC and a legal fellow at the ACLU's National Security Project. He is a graduate of Harvard Law School and the University of Massachusetts-Amherst.

WENDY WAYNE is the Director of the Immigration Impact Unit at the Committee for Public Counsel Services, where she advises, trains and provides litigation support to criminal defense attorneys. Ms. Wayne lectures frequently on the interplay between immigration and criminal law. She has filed numerous amicus briefs in criminal cases with immigration issues, and argued *Commonwealth v. Sylvain (I)*, in which the Supreme Judicial Court held that *Padilla v. Kentucky* is retroactive under state law. She is a member of the ABA Commission on Immigration and the Massachusetts Access to Justice Commission.

CHAUNCEY WOOD is a criminal defense attorney with nearly 25 years' experience. He is a partner in the Boston law firm of Wood & Nathanson, LLP and a MACDL Board Member. In 1994, he graduated with high honors from Boston University School of Law, where he served as the Editor-in-Chief of the Public Interest Law Journal. From 1994-96, he worked in the business crimes unit at Dickstein, Shapiro & Morin, a large Washington, DC firm. From 1996-2000, he was a partner in the Boston firm of Swomley & Wood with John Swomley. There, he served as a district court bar advocate in Cambridge and Somerville. From 2000-2002, Mr. Wood served as a Maryland public defender. He spent time in the Post-Conviction Unit and a felony trial unit. He has specialized in post-conviction litigation since 2003. He was selected for the 2015 Superlawyers list in the area of criminal defense. He is a member of the CPCS murder panel and the federal Criminal Justice Act post-conviction and habeas panels. He currently serves as the co-chair of the MACDL Amicus Committee.