

# NYSACDL

New York State Association of Criminal Defense Lawyers  
An Affiliate of the National Association of Criminal Defense Lawyers

"Not for the few, but for the rights of All"

**NEW YORK STATE ASSOCIATION OF CRIMINAL DEFENSE LAWYERS  
PRESENTS  
ANNUAL SYRACUSE TRAINER 2010  
FEATURING  
5 CLE CREDIT HOURS OF SKILLS; 1 CLE CREDIT HOUR OF ETHICS  
SATURDAY, APRIL 17, 2010  
SYRACUSE UNIVERSITY COLLEGE OF LAW  
ROOM 100, MACNAUGHTON HALL  
SYRACUSE, NEW YORK**

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**NEW YORK STATE ASSOCIATION OF CRIMINAL DEFENSE LAWYERS**

*Presents*

**ANNUAL SYRACUSE TRAINER**

**SATURDAY, APRIL 17, 2010, 9:00 – 4:00**

**SYRACUSE UNIVERSITY COLLEGE OF LAW**

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**PROGRAM AGENDA**

- 8:30 a.m.      REGISTRATION
- 9:00 - 9:50      Avoiding Conflicts: Recognizing and Addressing the Myriad Conflict of Interest Situations that Arise in the Course of Representation, John S. Wallenstein, Esq.
- 10:00-10:50      Jury Selection: The Law and Practical Advice, Aaron Mysliwec, Esq.
- 10:50-11:10      BREAK
- 11:10-12:00      Cross Examination of the Informant, George R. Goltzer, Esq.
- 12:00–12:40      LUNCH
- 12:40-1:30      Vehicle Stop Issues, Michael Mohun, Esq.
- 1:40–2:30      You Didn't See What You Think You Saw: Developing the Defense of an Eyewitness ID Case from Arrest to Trial, Andre Vitale, Esq.
- 2:40–2:50      BREAK
- 2:50–3:40      *Crawford/Melendez-Diaz* Issues in DWI Cases, Donald Rehkopf, Jr., Esq.

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- Case Law

#### **Jury Selection: The Law and Practical Advice** *Presented by Aaron Mysliwiec, Esq.*

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- Is the Witness Telling the Truth Assessment
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- *The Truth and Nothing But: How Juror Questionnaires Help You Get There*, Moreno, Linda, and Guastafarro, Joseph, Reprinted with permission from *The Champion*, July 2009

#### **Cross-Examination of the Informant** *Presented by George R. Goltzer, Esq.*

- Cross-Examination of the Informant Outline
- Transcript: *United States v. Jorge Rodriguez*

#### **Vehicle Stop Issues: Probable Cause to Believe the Driver has Committed A Traffic Violation** *Presented by Michael Mohun, Esq.*

#### **You Didn't See What You Think You Saw: Developing the Defense of an Eyewitness ID Case from Arrest to Trial** *Presented by Andre Vitale, Esq.*

#### **The "New" ABC's: A Defense Primer on Alcohol, Breath and Confrontation After *Melendez-Diaz*** *Presented by Donald Rehkopf, Jr., Esq.*

## FACULTY

**George R. Goltzer, Esq.** specializes in criminal defense. Current President of the New York State Association of Criminal Defense Lawyers, he lectures at Continuing Legal Education seminars on assorted criminal defense topics. Mr. Goltzer has extensive trial experience in high profile matters. He secured acquittals after three-month trials in both the Detective Vendetti murder and first Columbo War cases, tried the Jonathan Levin murder case and won acquittal of the first degree murder charge, secured dismissal of all charges for Louis Montero in the Brian Watkins Utah tourist murder case, and tried the Arohn Kee serial murders involving both nuclear and mitochondrial DNA issues. Mr. Goltzer currently represents Vincent Basciano in defense of an authorized capital prosecution in the United States District Court for the Eastern District of New York. Mr. Goltzer resides in New York City with his wife and two children.

**Michael Mohun, Esq.**, is a sole practitioner whose practice is limited to criminal defense and representation of judges before the Commission on Judicial Conduct. For eight years, he served as Bennington Town Justice. Mr. Mohun was appointed to serve the towns of Perry and Warsaw as acting Justice. He instructs Town and Village Justices through the Office of Court Administration's continuing legal education program. Currently, he is the Chairman of the Eighth Judicial District Attorney Grievance Committee. He serves on the Executive Committee of the Criminal Law Section and on the Special Committee for Judicial Discipline of the New York State Bar Association. Mr. Mohun is a Director of NYSACDL.

**Aaron Mysliwicz, Esq.** has been a criminal defense lawyer for more than a decade. He has defended everyone from a Fortune 500 company to a senior citizen who could not afford to pay a lawyer. He strongly believes that no matter who you are or what you've been accused of doing, you deserve to have someone in your corner. Mr. Mysliwicz's practice includes defending clients against "white collar" criminal charges and against criminal charges such as murder, rape and narcotics distribution. This representation involves defending clients in both state and federal courts in New York and in other state and federal courts around the country. Mr. Mysliwicz graduated from the Georgetown University Law Center in 1997 and from Carleton College in 1993. He is admitted to the bar in New York and Minnesota. He is also admitted to practice in the United States District Courts for the Southern and Eastern Districts of New York, the District of Minnesota, the Northern District of Texas, and the United States Court of Appeals for the Fifth Circuit. Mr. Mysliwicz is also a graduate of the National Criminal Defense College's trial skills program. In addition to Mr. Mysliwicz's experience, he is a Board Member and Treasurer for the New York State Association of Criminal Defense Lawyers. He has lectured and trained other lawyers on topics such as jury selection, cross-examination, closing argument, and the illegal imposition of post-release supervision on New York State prisoners and he has contributed materials to a National Association of Criminal Defense Lawyer training on litigating an "eye-witness" identification case. Finally, Mr. Mysliwicz has appeared on Court TV's The Best Defense.

**Donald G. Rehkopf, Jr., Esq.** is associated with Brenna, Brenna & Boyce, PLLC in Rochester, NY where he concentrates on criminal defense and military law. From 1981-85, Mr. Rehkopf was in private practice in Frankfurt am Main, Germany, where his practice was limited to defending U.S. military personnel before courts-martial and administrative proceedings. From 1985-96, he was a staff attorney in the Violent Felony Offender section of the Monroe County Public Defender's Office in Rochester concentrating in complex forensic science and medical issues affecting those accused of serious crimes. Mr. Rehkopf is a frequent lecturer on military justice, criminal law, criminal trial techniques, and professional ethics. He is admitted to practice before the U.S. Supreme Court, the U.S. Court of Appeals for the Armed Forces, and in New York State. He has tried over 225 cases to a verdict and argued countless appeals. He is Co-Chair of the Military Law Committee of the National Association of Criminal Defense Lawyers and a former Vice-President and current Director of NYSACDL. He was an amicus curiae party as one of the "Experts of the Law of War" at the Supreme Court in *Hamdi v. Rumsfeld*, 124 S.Ct. 2633 (2004), while simultaneously representing another amicus curiae, People to Enforce the Geneva Conventions, in that case.

**Andre Vitale, Esq.**, is a Special Assistant Public Defender at the Monroe County Public Defender's Office, currently supervising the office's Non-Violent Felony Section as well as carrying his own caseload. Andre has served with the Public Defender's Office for more than 10 years, handling violent felony and major drug cases. He has significant trial experience having handled more than 50 jury trials including two murders—one of which involved challenging the DNA evidence offered by the Government. Andre is a current Director of NYSACDL, and has been awarded the Kevin Andersen Award by the New York State Defender Association (NYSDA) and the Denison Ray Award by the New York State Bar Association. He is a frequent lecturer with the Public Defender's Office as well as programs sponsored by NYSACDL and NYSDA.

**John S. Wallenstein, Esq.** is a Director of NYSACDL and a member of its CLE Committee. He is a Past President of the Criminal Courts Bar Association of Queens County, a member of the National Association of Criminal Defense Lawyers, and a former Supervising Assistant District Attorney in Queens, New York. He has been in private practice since leaving the DA's office in 1982, with a practice concentrating primarily in federal and state criminal defense and commercial litigation. He is also General Counsel to the New York State Monument Builders Association and a leading expert on cemetery and "death care industry" law. Mr. Wallenstein has tried more than 150 cases to verdict, in state and federal courts, and has been co-counsel in three federal capital cases. He represented the infamous "Zodiac Killer" in New York State court, and has been lead counsel in a number of other high profile homicide cases. Mr. Wallenstein has been an Instructor at the National Institute for Trial Advocacy, and at the Intensive Trial Advocacy Program at the Cardozo School of Law, as well as a lecturer for NYSACDL, the Nassau County Bar Association and the Queens County Bar Association. He maintains his office in Garden City, New York.