

MAN vs. MACHINE VII
DEFENDING THE DWI CASE

February 12, 2020

7.5 CLE Credits

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| 8:30 – 9:00 | Registration and Breakfast |
| 9:00 – 9:10 | Introductory Remarks |
| 9:10 – 10:25 | Using Discovery Reform to Win DWI Cases (Steven Epstein) (1.5 Skills)

In April 2019, New York State passed sweeping criminal justice legislation, overhauling rules governing discovery. This lecture will explore the changes to discovery practices in DWI cases and explain how the discovery is relevant to a DWI defense. Attendees will learn the changes to New York’s discovery statute, develop a basic understanding of breath testing, gas chromatography and be able to articulate to courts and prosecutors what the law requires be turned over and why it is relevant to a DWI defense. |
| 10:25 - 10:35 | Morning Break |
| 10:35 – 11:50 | Keeping it out of Evidence (Dan McGuinness) (1.5 Skills)

Often preventing the government from using a breath test is the key to winning your DWI case. This comprehensive presentation will review various methods of pre-trial motion practice which are designed to keep the breath test out of evidence including attacking the methods of testing, the stop of the automobile, probable cause determinations and various motions to preclude the breath test. |
| 11:50 – 12:50 | Handling Refusal Hearings at the DMV: Turning “No” into a “Yes” (Lisa A. Saltzman) (1.0 Skills)

At times the attack of the machine begins at the arrest when the client refuses. This informative presentation will discuss the parameters of a Department of Motor Vehicle Refusal Hearing. Attendees will learn tips on how to win the refusal hearing and how to use the DMV Hearing to fuel the defense of a DWI case. |
| 12:50 – 1:45 | Lunch Break |

1:45 – 3:00

Using the NHTSA Three Phases of a DUI Investigation to Win Your Case (Steven Epstein and Anthony Palacios) (1.5 Skills)

There are three phases to a DUI investigation that police are taught during the National Highway Safety Administration (NHTSA) DUI Detection and Standardized Field Sobriety Tests course. Each phase is designed to accumulate evidence to ultimately establish probable cause to arrest for DUI. Attendees will learn an overview of each phase and how to use the information to develop lines of cross examination of the arresting officer to win the suppression hearing or at trial in a DUI case.

3:00 -3:50

Case Law Update (Eric Sills) (1.0 Skills)

Eric Sills, Esq. will give his annual review of this year's major developments in New York case law impacting the practice of DUI defense in New York State

3:50-4:00

Afternoon Break

4:00 – 4:10

Announcements

4:10 – 5:00

Keynote Address - Uncovering the Truth – The Story Behind the Article “These Machines Can Put You in Jail. Don’t Trust Them” (Stacy Cowley and Steven Epstein) (1.0 Skills)

The New York Times interviewed more than 100 lawyers, scientists, executives and police officers and reviewed tens of thousands of pages of court records, corporate filings, confidential emails and contracts over the past year. Their investigation exposed that breath tests, a linchpin of the criminal justice system, are often unreliable. One of the authors who conducted this investigation will share the evolution of her story with us.