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CALIFORNIA DUI
LAWYERS ASSOCIATION

HOME OF THE TOP DUI ATTORNEYS IN CALIFORNIA!

MARCH 2024 NEWSLETTER

1.) WELCOME NEW BRONZE SPONSOR: DMS OPTIONS

DMS Options offers private Electronic Monitoring Programs (EMPs), featuring a range of monitoring services such as GPS monitoring, house arrest, curfew monitoring, continuous alcohol monitoring (SCRAM), and drug monitoring. In addition to these standalone services, we provide a comprehensive outpatient program that seamlessly integrates these monitoring options with the expertise of licensed professional drug and alcohol counselors.

Our counselors are highly trained in alcohol and drug dependence as well as relapse prevention, ensuring that clients receive expert guidance throughout their recovery journey. Notably, many clients who initiate our program pre-trial ultimately find themselves sentenced to Options in lieu of serving jail time.

DMS Options is a trusted resource, receiving referrals from private and public defenders, probation officers, district attorneys, and judges. With offices located in both Northern and Southern California, we offer the flexibility to come to court, advocating for your clients' release and providing expert testimony to validate the efficacy of our products.

We are a reliable partner in the defense community, and we are dedicated to helping your clients navigate their legal challenges while fostering positive outcomes in their recovery.



Stephine Garwood

408-482-9679

Sgarwood@optionsoutpatience.com

2.) MARCH FREE MCLE WEBINAR

DATE: Tuesday, March 12, 2024
TIME: 4:30 to 6:00 p.m.
PRESENTER: Joshua Price
TOPIC/PROGRAM: **Breath Testing & the GERD Disconnect Defense**
MCLE: 1.0 Credit Hours
COORDINATOR: Dr. Roger Andersen, CDLA Executive Director
COST: FREE!
REGISTRATION LINK:
<https://us02web.zoom.us/j/87575676365?pwd=WXVodINQN0pDa2FaOGppVGV3WUcudz09>

WEBINAR DESCRIPTION

This webinar will focus on Disconnect Defense-Focus on GERD/LPR and general discussion of other disconnect defenses. Breath alcohol testing is subject to many potential flaws. One of the best possible defenses is when you have a client who has a high breath alcohol level and who swears that the amount of alcohol consumed could not have amounted to anywhere close to a .08%. He/she looks sober and has Gastro Esophageal Reflux Disease (GERD) or Laryngopharyngeal Reflux (LPR). In this presentation, CDLA Immediate Past President Joshua Price will walk through how to successfully present this defense at trial.

PRESENTER: JOSHUA PRICE



Based in San Diego, California, Attorney Joshua Price has been practicing DUI Defense exclusively since 2009 throughout Southern California. Although the last few years he primarily practices in San Diego County.

He will travel for anyone willing to fight their case! Attorney Joshua Price is the founder and owner of Defending Rights Law Center, Inc. which is a full-service DUI Law Firm. He and his team handle everything from pre-trial hearings, motions, trials, DMV hearings, writs and appeals.

Attorney Joshua Price says that continuing education and training is key to keeping up with changes and trends in the law and the legal community. He backs his beliefs with action. He has gone through the same training as law enforcement officers when it comes to Standardized Field Sobriety Testing. He attended a three-day, 24-hour training and testing to become qualified in administration of these tests pursuant to the National Highway Traffic Safety Administration (NHTSA).

He attended a two-day, 16-hour, Advanced Roadside Impaired Driving Enforcement (ARIDE) training where he learned more advanced techniques and testing that law enforcement use to try to detect drugs other than alcohol in DUI investigations. Josh also attended a five-day, (more than 40 hours of training) at Shimadzu Laboratory at University of Texas, Arlington. The Serious Science Blood Drug Analysis course combined hard science and trial advocacy. He learned the basics of metrology, blood alcohol and the more complex blood drug analyses, and got hands-on experience preparing and analyzing samples of blood for detection of various drugs. Typically, he attends 20-30 hours of CLE's a year related to DUI training.

He is a specialist member of California DUI Lawyers Association (CDLA). He was voted to the Board of Directors for the Association in 2017. He is the immediate Past President of CDLA. His last 3 GERD DUI Jury Trials: 1. Not Guilty on a .14/.13 Breath alcohol test case; 2. Not Guilty on a .11/.11 Breath alcohol test case; 3. Hung Jury on .17/.16% breath alcohol test case.

Attorney Joshua Price has been awarded the AV Preeminent rating from Martindale-Hubbell since 2021-present. He has 3 children: Braylon (5), Kaeden (3), and Zaraiya (12 months old) and just celebrated his 7th wedding anniversary with his wife, Alicia. When he is not practicing DUI Defense or chasing kids around, he is an active Mountain Biker, soccer player and snowboarder. He is insistent that success depends on a good work-life balance....we have one of the most stressful professions in the world and we must make time for ourselves and have healthy outlets to maintain a successful practice!

ADDITIONAL INFORMATION

- Brief presentations from our Sponsors will be held prior to the start of this webinar.
- This program will be recorded and added to CDLA's Learning Management System.
- 18 CDLA webinars are available on-demand 24/7 via the CDLA website (& to earn MCLE credit!)
- The PowerPoint presentation will be sent to all attendees along with a Certificate of Attendance (1.0 credit hours) and a brief evaluation survey.

Please contact me with any questions registering for this webinar - or any CDLA membership issue!

3.) TWO REQUESTS FROM CDLA PRESIDENT MANNY DASKAL

LEGISLATIVE CONNECTIONS

In line with our recent victory in *CDLA v. DMV*, our Association needs to become more active in interacting with our State legislature in promoting DUI-related legislation.

We have seen the DMV try to circumvent the implementation of this lawsuit and the need to seek assistance in compliance with the conditions of *CDLA v DMV*.

We are confronted daily with the DMV/AG maneuvering to resist compliance. In addition, we need to confront the loss of in-person hearings and hearings being conducted from foreign offices throughout the State. Those offices are unfamiliar with our local topography and cultures. The vicinage requirement has completely disappeared. In addition, the DMV "office staff" has implemented issuing SDTs in multiples cases on behalf of the DMV Hearing Officer. This practice allegedly allows the "separation of powers" demanded from the holding in *CDLA v DMV*.

Our organization has recently formed a Legislative Committee to work with and advocate before the Legislature. (Our lawsuit took a number of years and many thousands of dollars to pursue.)

If you have connections with any State legislator who might be willing to assist us in identifying and/or introducing DUI-related bills in Sacramento, please contact me (mdesq@sbcglobal.net) or Executive Director Roger Andersen (ed@californiaduilawyers.org).

SEEKING NEW CDLA ATTORNEY

Our long-serving Board attorney has recently retired. The CDLA Board of Directors is seeking ***recommendations for an experienced and accomplished attorney*** who may address legal questions and issues our Association may face. This person would serve as a consultant to the Board and contacted as needed. Please forward the contact information for any person you recommend to me (mdesq@sbcglobal.net) or Executive Director Dr. Roger C. Andersen (ed@californiaduilawyers.org)

Thank you on behalf of the CDLA Board of Directors!

4.) CHRIS MARKELZ GETS DMV STATUTES HELD UNCONSTITUTIONAL!

NOTE: This information was provided by ***Richard Middlebrook*** via the CDLA listserv.

"In a huge win, CHRIS MARKELZ slayed the dragon and got multiple DMV related statutes held unconstitutional. So when your client gets kicked out of their DUI classes and you now get a right to a hearing (eventually) you have Chris' brilliance to thank. This kind of decision is nearly impossible but is indicative of the fight we need to be putting up daily. It came down today and he got the injunction!

The case is *Randolph v. DMV* out Los Angeles Superior where Judge Chalfant held and ordered, "Sections 13352(e)(2), 13352.4(1), 13353.75(a)(1)(C), and 13353.6(a)(1)(C) are facially

unconstitutional as a matter of due process because they do not provide the driver an opportunity for an administrative hearing to determine whether his or her driver's license should be suspended or revoked after the DMV receives notification from a DUI program that the driver has been dismissed from the program. The DMV is required to provide at least a paper hearing in which the driver can contest his or her dismissal from the program. These statutes may not be enforced against a driver without the opportunity for such a hearing and an injunction will issue to that effect.

Chris and his team are absolute warriors. We are lucky to count him among our members!"

5.) CDLA LAW LIBRARY RESOURCES

Over 200 files and folder are available in the new CDLA Law Library. These documents have been shared by members via our listserv. To access:

<https://www.californiaduilawyers.org/>

MEMBER LOGIN

MEMBER PAGE

LAW LIBRARY

IMPORTANT DISCLOSURE: The documents listed in this Law Library have been submitted and shared by CDLA members via the CDLA listserv. CDLA cannot guarantee the accuracy or currency of the materials contributed to this Law Library. As with any other research tool you should check cites and subsequent developments before relying on any authority cited. This Law Library will be updated each month with new documents shared by CDLA members.

6.) CDLA WEBINARS AVAILABLE ON-DEMAND

CDLA members can access **18 programs** and even earn MCLE credit!

The following programs are available:

- **Field Sobriety Tests; Fact, Fiction, or Voodoo Economics (RECENTLY ADDED!)**
- **THC/Cannabis: Recognizing Impairment**
- **DUI Forensics: How to Support Your Expert and Discredit the State Charlatan**
- **Head Trauma, Comprehensive and Intoxication: What to Look for in every Case**
- **California Primer for DUI & Criminal Defense Attorneys**
- **Ethics & Diversity in Your Legal Practice**
- **Human Factors**
- **Miranda & DUI with Lara Gressley**
- **Cross Examination of the State's Expert**
- **DUI Drugs Webinar Part 1: Pharmacology Expert**
- **DUI Drugs Webinar Part 2: Drug Recognition Evaluation (DRE)**
- **DUI Drugs Webinar Part 3: Blood Analysis for Drugs**
- **Effective Opening Statements**
- **All Things AMP (Accepted Medical Practices)!**
- **Victim Restitution**
- **The Rule-Out Method of Criminal Defense: A Game Changer**

- **Effective Legal Writing for Attorneys**
- **How to Challenge the THC Evidence in Every Case**

After you "MEMBER LOGIN" to your account on the CDLA website:

- 1.) **MEMBER LOGIN**
- 2.) **ON-DEMAND WEBINARS**
- 3.) **COURSE LIST**
- 4.) **DETAILS**
- 5.) **SELECT THE COURSE YOU WANT TO VIEW**

IMPORTANT NOTES

- A copy of the presentation, supplementary information, instructor bio, and a link to the assessment will also appear.
- Once you have watched (at least 90% of) the webinar and completed the assessment (with a 70%+ passing grade), you will "automatically" receive a Certificate of Attendance and MCLE credit via email.
- Print the Certificate, complete the bottom portion of this form, and retain a copy for your files.

Please contact me if you have difficulty accessing any of these presentations or do not receive your **MCLE Certificate of Attendance** after successfully completing any program.

7.) NEW MEMBERS IN FEBRUARY

MEMBER: **Chassity Dawson**
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 EMAIL ADDRESS: chassity@ticketcrusherslaw.com
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MEMBER: **William Aspinwall**
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8.) SAVE THE DATE FOR THE 2024 ANNUAL KUWATCH CONFERENCE!

Please reserve the dates of **Friday, August 2 & Saturday, August 3, 2024** to join us for the 2024 Annual Kuwatch Conference in San Francisco (Hyatt Centric at Fisherman's Wharf) where we will celebrate our 35th anniversary!

A full program of speakers and activities will be released by March 15, 2024 and early registration will open on April 1, 2024.



9.) MEMBER SPOTLIGHT: MIKE DONALDSON



I am Mike Donaldson. Half of the newly formed Gressley & Donaldson LLP. As many of you know, Lara and I have now established our own firm, following Don Bartell's passing in October 2022. I want to thank the California DUI Lawyers Association (CDLA) for all of the support we received following Don's passing. We really could not have done it without you. In particular, I would like to thank Vince Tucci, Peter Johnson, Josh Price, Rick Mueller, Michael Fremont, Michael Goldstein, Richard Middlebrook, Charlie Unger, Don Hammond, Lynn Gorelick, Virginia Landry, Jessica Jiminez, Julie Baldwin, John Murray, Erica Madrid, Daniel Flores, and many others. You all are awesome. Thank you.

I came to CDLA without a clue, unknowingly sleepwalking my way through DUI cases. CDLA has been instrumental in my career, and my ability to defend persons accused of DUI. If you are new or fairly new to the organization, I encourage you to stick your hand out and get to know the members, and ask questions. I graduated from the Gerry Spence Trial Lawyers College in 2017. Other than CDLA, and working with Don & Lara, the Trial Lawyers College was perhaps the best thing I've done to grow as a lawyer. I stay active with a local Trial Lawyers College working group, where we work cases up prior to trial. It is a great resource.

I grew up on the wrong side of the law, in a family that, over time, was ravaged by substance abuse. I was no stranger to the back of a police car. But, in a small town, if you play sports for the high school, you get let off easy. Others didn't get off so easily, and, from the outside looking in, the criminal justice system never seemed like it fairly or adequately helped people who weren't necessarily to blame for the circumstances they found themselves in. Once I got my first experience in criminal defense, it felt like the perfect fit for somebody like me with a competitive sports background, and a desire to see people treated fairly.

I am coming up on my 10th year as a lawyer. Many of those years were spent with Don Bartell. Don often remarked about something he called "10-year lawyer syndrome." A syndrome he described as afflicting lawyers in or around their 10th year of practice, which convinced them that they had seen it all, done it all, learned it all, and now no longer needed to learn or improve. My goal this year is to not get hit with 10-year lawyer syndrome.

I don't particularly like courtrooms, but I'm there because I have to be. Everything in a courtroom is dead or on its way there. There's no sunshine. When I'm not in the captivity of a courtroom, I'm generally outside gardening, playing pickleball, or playing music. I have been married to my beautiful wife, Kirstie, for 9 years, and we have been blessed with two awesome children, Paige & Brooks, and two great dogs, Sonny & Lou.

Dr. Roger C. Andersen, Executive Director; ed@californiaduilawyers.org 925-325-8455 (cell)

