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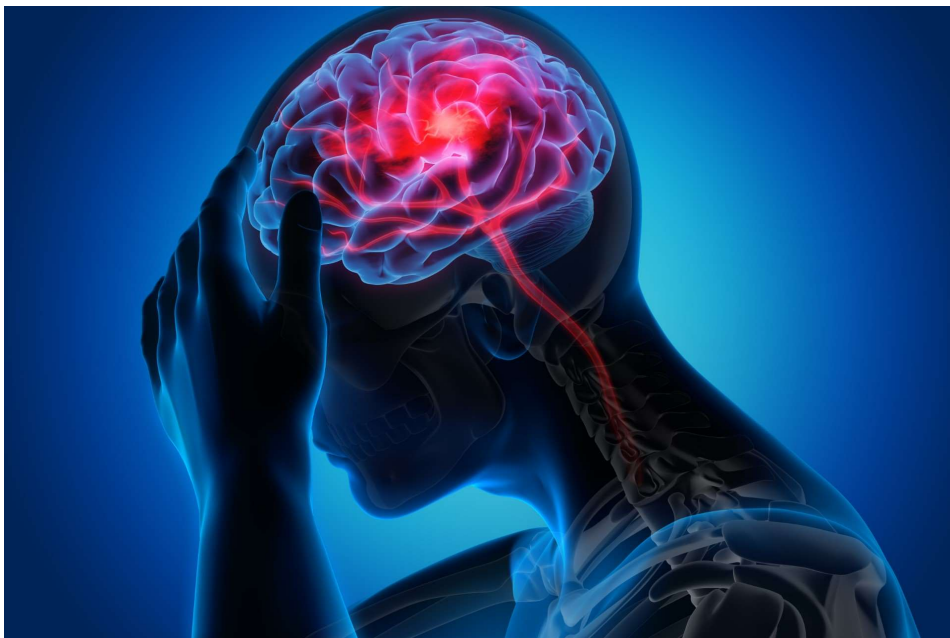


CALIFORNIA DUI
LAWYERS ASSOCIATION

HOME OF THE TOP DUI ATTORNEYS IN CALIFORNIA!

SEPTEMBER 2023 NEWSLETTER

1.) SEPTEMBER WEBINAR



DATE:	Tuesday, September 12, 2023
TIME:	11:30 a.m. to 1:15 p.m.
PRESENTER:	Tara Godoy, BSN RN CFN
TOPIC/PROGRAM:	Head Trauma, Comprehensive, & Intoxication: What to Look for in Every Case
MCLE:	1.25 Credit Hours
COORDINATOR:	Dr. Roger Andersen, CDLA Executive Director
COST:	FREE!
REGISTRATION LINK:	https://www.californiaduilawyers.org/head-trauma

WEBINAR DESCRIPTION

This 75-minute webinar covers the different types of Traumatic Brain Injuries (TBI) that result from trauma to the brain to build a foundation of how trauma affects the brain, and then will dive into the application in criminal cases. Discussion will include aggressive behavior, alcohol intoxication, and consent capacity after TBI. Criminal attorneys and investigators for both the prosecution and defense will benefit from understanding the affect that head trauma has on defendants and/or victims in criminal cases.

PRESENTER: TARA GODOY, BSN RN CFN

Tara Godoy is a Certified Forensic Nurse and has been working with Criminal and Civil Attorneys for over 10 years. She has a BS in Nursing from the University of Southern California and is an MBA candidate at UC Berkeley Haas School of Business. Tara was a San Francisco Bay Area Native but now lives in beautiful Southern Oregon. Through consulting and testimony, she has assisted both the prosecution and the defense in obtaining an honest and fair resolution in hundreds of criminal cases. Through their Forensic Nurse Experts and other Forensic Professionals, Godoy Medical Forensics has consulted on over 2,000 cases nationwide and has worked at both the federal and state levels. Tara has been asked to present for national organizations such as the NACDL and the NDIA at their Forensics conferences in Las Vegas. Tara's main areas of expertise are Strangulation and Blunt Force Trauma. Tara can be reached at Tara@GodoyMedical.net

ADDITIONAL INFORMATION

- This program will be recorded and added to CDLA's Learning Management System.
- 14 CDLA webinars are available to be viewed on-demand 24/7 via the CDLA website (& to earn MCLE credit!)
- The PowerPoint presentation will be sent to all who attend along with a Certificate of Attendance (1.25 credit hours) and a brief evaluation survey.
- Additional information or assistance with registration, contact Executive Director Dr. Roger C. Andersen:

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

2.) REPORT FROM THE ANNUAL KUWATCH CONFERENCE

- 97% of the attendees to this year's annual conference stated that our two-day seminar ***met their educational objectives***
- 94% stated they were ***very satisfied*** with their overall educational experience at the conference
- All 8 presenters received a score between ***4.8 to 5.0*** (excellent);

At the **Awards Luncheon & Membership Annual Meeting**, **President Manny Daskal** recognized many CDLA Directors including the following:

SERVICE AWARDS

Two Directors were presented awards for more than 20 years of service on the Board:

Manny Barba (who also served as Vice President last year)

Vince Tucci (who also served as President from 2007 to 2010).

PRESIDENT'S AWARD

The President's Award is given to a CDLA member in recognition of steadfast commitment to CDLA and to Freedom, and for outstanding efforts in defending the accused and zealously guarding our Constitutional rights:

Richard Middlebrook

Lara Gressley (below)



EDWARD KUWATCH LIFETIME ACHIEVEMENT AWARD

This prestigious award and CDLA's highest honor is given annually to a CDLA member who, over an extended period of time, has made significant contributions to the mission, goals, and growth of CDLA and who has had a substantial positive impact on the lives of hundreds of clients accused of driving under the influence and related offenses in his or her career.

LYNN GORELICK



3.) BOARD OF DIRECTORS FOR 2023-2024 YEAR



Based on the election held at the 2023 *Annual Kuwatch Conference*, the following are the Officers and Directors to serve on the Board of Directors for the 2023-2024 year:

OFFICERS

President: Manny Daskal

Vice President: Lara Gressley*

Secretary: Erica Madrid

Treasurer: Philip Gagnon

DIRECTORS:

Lynn Gorelick

Peter Johnson

Richard Middlebrook

Joshua Price (Immediate Past President)

Michael Kennedy (Listserv Moderator)

Virginia Landry

Phillip Crawford

Jeanne Normandeau*

Suzanne Ferguson*

Ryan Wilbur*

*newly elected Director

4.) NEW MEMBERS IN AUGUST

MEMBER: Christian Martorana
ORGANIZATION: Summit Consulting
EMAIL: christian@summitconsultingpi.com
TELEPHONE: 559-547-7750
COUNTY: Stanislaus

MEMBER: Colin Rudolph
ORGANIZATION: The Rudolph Firm
EMAIL: Colin@TheRudolphFirm.com
TELEPHONE: 619-321-7949
COUNTY: San Diego

MEMBER: David Faulkner
ORGANIZATION: Law Office of David L. Faulkner
EMAIL: david@davidfaulknerlaw.com
TELEPHONE: 661-319-9479
COUNTY: Kern

MEMBER: Gina Kung
ORGANIZATION: Law Office of Gina Kung
EMAIL: kung.gina@gmail.com
TELEPHONE: 408-497-8928
COUNTY: Santa Clara

MEMBER: Harry Drandell
ORGANIZATION: Law Offices of Harry M. Drandell
EMAIL: hmdrandell@sbcglobal.net
TELEPHONE: 559-442-1041
COUNTY: Fresno

MEMBER: Lucy S. McAllister
ORGANIZATION: Law Offices of Lucy S. McAllister
EMAIL: lucymclassiterinc@yahoo.com
TELEPHONE: 408-291-8686
COUNTY: Santa Clara

MEMBER: Mario Martinez
ORGANIZATION: Law Office of Mario Martinez
EMAIL: mariojmartinezlawoffice@gmail.com
TELEPHONE: 831-754-1234
COUNTY: Monterey

MEMBER: Nicole Joens
ORGANIZATION: Los Angeles Public Defenders Office
EMAIL: jnoens@pubdef.lacounty.gov
TELEPHONE: 562-803-7131
COUNTY: Los Angeles

MEMBER: Phillip Okonma
ORGANIZATION: Los Angeles County Public Defenders Office
EMAIL: pokonma@yahoo.com
TELEPHONE: 323-252-7748
COUNTY: Los Angeles

MEMBER: Roberto Garcia
ORGANIZATION: Los Angeles County Public Defenders Office
EMAIL: rgarcia2@pubdef.lacounty.gov
TELEPHONE: 323-702-6865
COUNTY: Los Angeles

MEMBER: Roman Escueta
ORGANIZATION: Law Office of Stein and Markus
EMAIL: rescueta.steinandmarkus@gmail.com
TELEPHONE: 562-866-9762
COUNTY: Los Angeles

5.) PRESS RELEASE: CDLA WINS DMV LAWSUIT!

CDLA recently released the following press release and posted it to our website:

California Governor Newsom recently approved a \$3 million payment for the payment of claims, settlements, or judgments against the state arising from a lawsuit brought by the California DUI Lawyers Association (CDLA) against the California Department of Motor Vehicles that was filed 9 years ago.

CDLA filed a complaint on August 1, 2014, alleging that the DMV's "administrative per se" or "APS" system used to suspend a driver's license following an arrest for driving under the influence was unfair and unconstitutional.

CDLA alleged that, because the continued possession of a driver's license is a vital property right, it cannot be suspended without due process of law. CDLA argued that DMV's APS system unlawfully required Hearing Officers to act both as advocate for the DMV and the decision maker in the case. This created an obvious and inherent conflict of interest and bias favoring one party over the other.

In April 2022, the California Court of Appeal's decision agreed with CDLA's position that the DMV's APS hearing system violated driver's procedural due process rights. The Court of Appeal determined that a single DMV hearing officer acting as both an advocate for the DMV and the DMV's trier of fact at the APS hearing is a violation of due process. It also found that Vehicle Code section 14112(b) is unconstitutional to the extent it permits the DMV to combine the advocacy and adjudicatory roles in a single APS hearing officer.

"After nine-years the court has finally determined what most people already knew...that if the person prosecuting you also decides whether they did a good job, it is impossible to get a fair hearing," states CDLA President Manny Daskal.

“This ruling is monumental because it establishes that for decades, the DMV has been using an unconstitutional process to take people’s licenses,” adds CDLA Board of Director Phillip Crawford. “Hundreds of thousands of licenses were taken by a process that is, and always has been, unfair, one-sided, and inequitable with the deck always inordinately and illegally slanted towards the government. That ends now,” CDLA Board Member Richard O. Middlebrook chimes in.

Governor Newsom approved the sum \$3,073,000 for the payment of claims, settlements, or judgments against the state arising from CDLA’s lawsuit (California DUI Lawyers Association, et. al v. Department of Motor Vehicles, et. Al; Los Angeles County Superior Court, April 15, 2022, No. BC553552).

6.) MEMBER SPOTLIGHT: MICHAEL “CAPMOTION” KENNEDY



There have been many references to “Captain Motion” over the years, but what is that, or he, all about? Felipe Plascencia was a long-time fan [who tried to get him to apply for the judiciary].

At the beginning of Felipe Plascencia’s last appearance at National College in January of 2019, as he gazed across many DUI luminaries in the audience, he singled out Captain Motion:

“Besides, I would never look as good like Captain Motion looks when he wears his cape.”

“Captain Motion’s back there; let’s have a round of applause for Captain Motion. (applause)

“Before I begin, Captain Motion was the first person I looked up to when I was a public defender.

“That’s when I said ‘ah, I can take on anybody.’”

“If he can take on the DAs, the judges, his own office, I think I can take on a couple of cops.”

“So, Captain <appreciative gesture> right there....” (Captain’s tears)

We lost Felipe February 21, 2019.

The odyssey began in 1979, when Michael commenced law studies at the only 2 year program approved by the ABA, the SCALE program at Southwestern Law School [current title]. He graduated in 1981, took the Bar, and commenced law practice as a federal judicial law clerk in the Central District that Fall. Loving reading and writing law, that was the dream job for him, especially given that he was given keys to the federal court law library, where he spent hours daily in the dusty stacks.

Because of his expertise in federal constitutional law from that, he was hired by the Riverside DA’s office to deal with the nascent Prop. 8 problems/issues. That association became a disappointing eye-opener, because the lofty standards for prosecutors in this Republic defined by Justice Sutherland in *Berger v. United States* (1935) 295 U.S. 78, 88, has nothing to do with the reactionary punitive statism of modern prosecutors’ offices.

He then went into private practice in Blythe, got elected to the School Board, became a lecturer on law at the local community college, and thereby had another dream calling. But his wife, whom he met there, did not want to stay in distant Blythe, so they moved to the Coachella Valley, where all of his felonies were transferred anyway.

While there, his appointed and retained cases brought him into the magic of motions, the possibilities for which seemed to elude too many criminal practitioners. At one point, he had more motions on calendar than any other attorney, including the Public Defender’s Office, a high majority of which were granted. From that volume and success, he was dubbed “Captain Motion” by the supervising judge of the Indio superior court, and it stuck.

The chief deputy of the San Bernardino Public Defender’s Office saw his successes in cases he handled in Joshua Tree and dispatched the JT supervisor to ask him to join the office. Mike retorted that they could not afford him. The chief inquired what if they could? They did, and he joined the PD’s office.

While there, he tried to concentrate on DUIs, although his chief retorted that “I’m not wasting a topped-out grade 4 on DUIs!” Mike explained the ugly politics and phony stats that were resulting in victimization of people charged with that political crime to the Chief, who somewhat relented.

Ed Kuwatch became aware of the motions and trials Michael was excelling in and asked him to join the nascent “Deuce Defenders.” Mike was not impressed with the balance and mission-devotion of the typical DUI attorney in those days and declined the invitation, but he requested Ed’s materials, who then faxed everything he was doing to Mike’s PD’s office [almost blowing up the machine!].

Ed spoke to the president of the California Public Defenders Association [CPDA] and suggested that she invite Mike to lecture at the then-upcoming CPDA convention, and she did. The shrieks of enjoyment of his presentation resounded throughout the halls of the convention, and she came to see what the hubbub was all about. When she found out, Mike became a regular feature at seminars, and his lecture experiences began.

Ed and Mike met often about DUIs, at Ed's house, at Mike's house, and in seminars, and Mike became very familiar with, and impressed by, his scholarly aggression against the Hun in DUIs.

Mike's lectures on basic motions standards abounded, and people still ask about his "Ruminations," which were presented at those lectures. Mike will shortly present a new version of the "Ruminations" to send out on the CDLA list server.

Following Ed's untimely death in February of 2005, Mike decided to join the Board of CDLA, which had evolved from "Deuce Defenders," to preserve the standards that Ed set and which are too often ignored.

Mike's lecture career that Ed spawned has resulted in lectures with, and for, Richard "Racehorse" Haynes [who used a video recording of one of Mike's lectures to train his new lawyers], with and for "Bubba" Head and George Stein, for the National College for DUI Defense, with Al Menaster and John Scott, and for other organizations too numerous to detail here.

This is war, like it or not, and either fight it or go into Wills and Trusts to free up the battlefield.

7.) THE LAST WORD!

As always, please do not hesitate to contact me regarding any CDLA program or membership matter.

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