



# NATIONAL ASSOCIATION of DOCUMENT EXAMINERS (NADE) 2015 Conference

March 30 thru April 3, 2015

Nashville, TN

Opryland Hotel

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## “Techniques Linking Forensic Document Examination and the Legal Profession: The Interface Between Document Examiners and Trial Attorneys.”

### PRE-CONFERENCE (Monday) and CONFERENCE PROGRAM

#### **MONDAY, March 30, 2015**

8:00-8:15 AM: Welcome by President Heidi - Introduction of James J. Mangraviti, Jr., Esq., of SEAK.

8:15 AM to 5:00 PM: Mr. Mangraviti of SEAK.

BREAKS: Mr. Mangraviti will determine the best times for breaks to fit the presentation.

LUNCH PROVIDED: Noon to 1:15 PM.

DINNER: On your own.

ABSTRACT BY SEAK: The #1 way to grow an expert witness practice is to build the reputation of being an effective witness. This is a small group, hands-on, fast-moving interactive workshop covering deposition, direct examination, and cross-examination skills. Attendees will learn how to become markedly more effective and significantly more valuable expert witnesses. Instruction will utilize four methods: lecture, questions and answers, videos of experts actually testifying in real cases, and mock trial demonstrations using student volunteers. Attendees will have an opportunity to participate in demonstrations and to receive constructive feedback as to how to improve their performance. In addition, each attendee will be provided with a content-rich seminar manual.

ADDITIONAL NOTE BY COMPILER OF THE PROGRAM: The presentation provides the trial attorney with a standard whereby to measure the opposing expert and one's own as an effective witness. Additionally, the attorney can recognize if the opposing expert, under cross-examination or at deposition, is misusing the skills SEAK teaches, and so adopt tactics to retain effective and fruitful control of the examination of the opposing expert.

#### **TUESDAY, March 31, 2015**

8:15-8:30 AM: Official opening of NADE Conference 2015 by President Heidi Harralson,  
with invitation to non-members to apply for membership.

8:30-9:30 AM: Daniel Cooper, Esq., President of LitStrat, Inc.: “Simple vs Special Teaching  
to Jurors.”

ABSTRACT: This discussion will focus on the need for lawyers and their expert witnesses to take on themselves the burden of being effective teachers of science. The presentation of expert

analysis is an opportunity to educate and communicate what jurors need to learn in order to do their job. To evaluate your effectiveness, you have to evaluate not only what is being said by you and your witnesses but what is being heard, remembered, and applied by your jurors. Ultimately, the challenge is to arm your jurors with the ammunition, the information, the knowledge, and the energy they need to engage in a persuasive dialogue in the jury room. As you consider what and how you are going to teach the science relevant to your case, we have found the assessment of ten issues to be particularly useful.

9:30-10:30 AM: Richard Orsini, "Making Exhibits with SNAGIT."

ABSTRACT: Two techniques for creating court exhibits are presented by Mr. Orsini and in the afternoon by Ms. McKinnon. Court exhibits must fulfill both the technical requirements for reliability in document examination and the rules for admissibility.

BREAK: 10:30-10:45 AM

10:45-11:45 AM: "Academic Research in FDE at ETSU," session chaired by Heidi Harralson.

ABSTRACT: Although the technical and scientific foundations in all areas of forensic document examination have a history of more than 150 years of research and publication, current research is opening new grounds, satisfying today's rules and answering the current concerns about scientific unreliability. The attorney will know better how to question one's own examiner before court testimony to be sure all required aspects of reliability and admissibility are met. FDEs who fail to be aware of and apply findings of current research are vulnerable to penetrating cross-examination.

LUNCH PROVIDED: 11:45 AM-1:00 PM.

1:00-3:00 PM: Ginger Collins McKinnon, "Making Exhibits with PaperPort."

ABSTRACT: See above (Orsini)

3:00 PM: Free time and dinner on your own.

3:30 PM: NADE Board Meeting in President's suite.

### **WEDNESDAY April 1, 2015**

THEME FOR THE DAY: "Scientific and Legal Reliability of Expert Handwriting Testimony."

8:30-11:45 AM: Presentations by:

D. Michael Risinger, Esq., professor at School of Law, Seton Hall University,  
"What Fingerprints, Firearms and Bitemarks Can Teach Handwriting  
Identification."

Dr. Carole Chaski, Institute for Linguistic Evidence.

Marcel B. Matley, Certified member of NADE

"The Principal Threefold Solution: Reality, Logic, and Hard Work."

An Open Forum will follow. All issues of scientific and legal reliability are fair game.

**ABSTRACT:** Professor Risinger is the foremost scholar in case law regarding legal and scientific reliability of handwriting expertise. In the open forum portion, he will have opportunity to correct misunderstandings of his position on various issues and provide practical in-court advice.

Dr. Chaski had made the first proposal for modern lab research into handwriting expertise. Her ideas have yet to be properly adopted. She can provide reality-based advice on applying the scientific protocols to your expert's testimony before the other side has a chance to attack.

Marcel Matley has probably done more research into the literature of document examination and into rules and case law as applied to handwriting expertise than any other document examiner. His focus is on basing your evidence on observable, demonstrable and verifiable physical facts about the disputed handwriting.

There has never before been a forum on these issues with three persons of such diverse background and experience but yet with theories that are so thoroughly reality-based and related ultimately to effective litigation of the disputed writing.

**BREAK 10:00-10:15 AM.**

**LUNCH PROVIDED: 11:45 AM to 1:00 PM.**

**SPECIAL THEME FOR THE AFTERNOON:** Solutions offered and/or being implemented presently on some of the more notable legal and scientific challenges to handwriting expertise.

**ABSTRACT FOR ALL PRESENTERS IN THE AFTERNOON:** The afternoon presenters were selected precisely because they are each addressing a critical issue in today's debate regarding handwriting expertise. Each issue addressed has been subject to dispute in courts of law and of rulings that were subject to some degree of questionable accuracy by courts of law precisely because litigants did not know the proper technical information nor knew how to demonstrate and explain critical issues regarding reliability during both in limine hearings and at trial.

**1:00-2:00 PM:** Heidi Harralson, Adjunct Faculty Member, Department of Criminal Justice, ETSU, and Kathryn Kohler, FDE Graduate Certificate Program, ETSU  
"Survey of U.S. Colleges and Universities Offering Courses in FDE."

**ABSTRACT:** Academic programs in forensics generally, and document examination in particular, are not new to academia but are growing to a desirable breadth.

**2:00-3:00 PM:** Emily J. Will, CDE, D-BFDE  
"Parameters for Examination of Non-original Documents."

**ABSTRACT:** Original documents are often difficult or impossible to obtain. FDEs may be asked to examine non-original documents which come in a wide variety of formats and reproduction quality. This presentation reports on a review of literature and current research regarding FDE opinions based on non-original documents and proposes a set of parameters that can be relied upon by the FDE when examining non-original documents. These parameters offer the trial attorney a sound basis for evaluating acceptable expert practices and challenging the unacceptable.

**BREAK: 3:00-3:15 PM.**

3:15-3:45 PM: If he can come, Fausto Brugnattelli, of Milan, Italy, on an alternative view regarding photocopies. Otherwise, Marcel Matley presents: "Survey of Court Rulings re Reliance on Copies vs. Originals." If Mr. Brugnattelli presents, the results of Mr. Matley's research will be made available to all attendees.

3:45 to 5:00 PM: Elizabeth Waites, Attorney at Law

"Challenges to Admissibility: Winning the Battle Before It Is Fought."

**ABSTRACT:** An attorney, with graduate studies in FDE, discusses and distinguishes federal from Tennessee state law regarding expert admissibility, courtroom challenges to handwriting analysis, and how recent cases are shaping the legal landscape for litigation as new technology and advances in scientific methodology emerge.

This discussion will focus on document examination areas which frequently come under attack by opposing counsel, and ways to mitigate the persuasiveness of such challenges. Included will be potential vulnerabilities under each of the Daubert factors. Other issues of concern will be prosecutorial bias; the propriety of laboratory independence, and strategies to combat prosecutor challenges in criminal cases. Ways will be given by which the expert can assist the proponent attorney to prepare persuasive briefs and concise arguments in preparation for the court hearing.

**NOTE:** If there is a balance of time, speakers will reply to questions from the floor.

**DINNER:** On your own.

#### **THURSDAY, April 2, 2015**

8:30-11:45 AM: Rosalie Hamilton, President of Expert Communications, Inc.,

"Ten Mistakes Examiners Make with Their Advertising and Other Marketing."

Jim Robinson, Esq., President of JurisPro, Inc.

"What Attorneys Can Find Out About Experts," and "Why Attorneys Hire One Expert Witness Over Another."

**ABSTRACT FOR MS. HAMILTON:** The warnings to examiners how to avoid mistakes in marketing are based on Ms. Hamilton's extensive experience as a consultant to forensic experts in all aspects of the conduct their business. These warnings to experts are also advice to opposing attorneys as to when an expert's claims are to be investigated and how to know where one's own expert is vulnerable.

**ABSTRACT FOR MR. ROBINSON:** The same information as given for document examiners reminds attorneys how best to find the experts who are best for their cases. Mr. Robinson has given this same presentation several times for CLE credit.

**MORNING BREAK:** The presenters will determine the best times for breaks to fit the presentation.

**AFTER THE TWO PRESENTATIONS:** Open forum with Ms. Hamilton and Mr. Robinson.

**LUNCH PROVIDED:** 11:45 AM-1:00 PM.

1:00-2:00 PM: Roy Fenoff, D-BFDE

“Preliminary Research into Unity/Fragmentation of FDE Relative to Establishing Uniform Standards.”

ABSTRACT: This preliminary research project alerts the attorney to the variety of experts in the field and what the various segments of the profession claim as qualifications.

2:00-3:00 PM: “Academic Research in FDE at ETSU,” session chaired by Dr. Larry Miller.

ABSTRACT: This presentation is closely related to that on Wednesday afternoon by Ms. Harralson. Dr. Miller has both authored and edited leading texts in forensics. This presentation will provide essential value for attorneys in light of the current legal and forensic climate.

3:00-3:15 PM: Break.

3:15-5:00 PM: NADE Membership Meeting.

EVENING: Banquet.

6:00 PM: Cocktails on your own.

7:00 PM: President Heidi Harralson, MC at the banquet, will introduce Keynote Speaker.

**FRIDAY, April 3, 2015**

ALL DAY : Dr. Larry Miller, Chair and Professor, Department of Criminal Justice at ETSU, “Instrumentation in Forensic Document Examination: Research and Practical Application.”

BREAKS to be called by Dr. Miller to fit the presentations.

LUNCH PROVIDED: 12:00-1:15 PM.

ABSTRACT: In this comprehensive review of the instrumentation used in Forensic Document Examination, we will examine how to use accurate and relevant visual and physical techniques in document analysis. Review of instrumentation and techniques include photography, digital imaging, microscopy, IR/UV devices, Raman, FTIR, XRF, SEM, ESDA/EDD, GC-MS, TLCHPTLC, and others. Topics include:

- 1) introduction to each technique and a practical explanation as to how it works and what it is used for;
- 2) decision-making in using the most practical, relevant, and cost-effective techniques to answer document questions;
- 3) assessing limitations in techniques and instrumentation;
- 4) stages in analysis including evaluation and appropriate applications of destructive techniques;
- 5) proper handling, methods, and chain-of-custody when using destructive techniques;
- 6) alternative techniques when expensive instrumentation is not accessible;
- 7) published research on each technique and how these research studies inform and limit our analyses;
- 8) testifying about scientific instruments/techniques;
- 9) demonstration of some instruments/techniques;

10) information about instruments (cost, manufacturers, access).

**ADDITIONAL NOTES BY COMPILER OF THE PROGRAM:** Document examiners need the information Dr. Miller will present. First, they must know the full range of what current technology provides to document examiners. Second, they must know their own limitations within this full spectrum of the discipline. Third, they must be able to recognize when the client should be referred to a specialist in the field. Fourth, and not lastly since more could be said, they will learn what instrumentation will fit their practice and how to make best use of it for the good of the client and the financial benefit of their service. It is most ill advised to skip this day if one has opportunity to attend.

The attorney will understand what forensic evidence instrumentation can and cannot provide and thus know when it is being used to camouflage either ineptitude or a mistaken opinion. It is important to know when further research into an expert's claims is justified, or even mandatory, and how to expose inadequacies in forensic claims.

5:00 PM: Close of conference.