

Evidence

How to Get It and How to Use It



This practical seminar will provide invaluable information on the full spectrum of evidence issues, from obtaining and preserving evidence to correctly applying the rules at trial. Join our distinguished panel of federal and state judges and experienced practitioners for a truly unique program.

Topics to be covered include:

- ◆ Examination of expert witnesses in state and federal litigation
- ◆ Securing evidence from government sources
- ◆ Practical guidance in the use of evidence in arbitration
- ◆ Obtaining and preserving evidence for tort litigation
- ◆ Judge Jones' annual appellate update
- ◆ Ethical issues in the use of altered or stolen evidence

Friday, November 21, 2014

Ambridge Event Center
1333 NE Martin Luther King Jr. Blvd.
Portland, Oregon

5.75 General or Practical Skills and 1 Ethics MCLE Credits

— S C H E D U L E —

8:25

WELCOME AND INTRODUCTORY REMARKS

– *Hon. Robert D. Durham*

8:30–9:30

Appellate Update

This presentation will focus on significant recent evidence decisions (both criminal and civil) from the Oregon appellate courts, including hearsay exclusions, prior bad act evidence, scientific evidence, and expert opinion evidence.

– *Hon. Jeffrey S. Jones*

9:30–10:15

Walkin’ Down a Country Road: Evidence in Arbitration

When you step outside of the courtroom and into the arbitration setting, you leave many of the formal discovery and evidentiary rules behind. This presentation will provide practical guidance on how best to travel in this informal setting, from the gathering of evidence to its effective and efficient presentation.

– *Hon. Daniel L. Harris*

10:15–10:30

BREAK

10:30–12:00

Expert Witnesses in State and Federal Litigation

Judges Janice Wilson and Michael Simon will discuss the similarities and critical differences between practice in state court and federal court in the areas of expert discovery/investigation (pretrial in federal court and during trial in state court), the basis for expert opinions, pretrial exclusion of expert testimony, and effective techniques for direct and cross examination of expert witnesses. Relevant differences between civil and criminal practice involving experts will be explained.

– *Hon. Michael H. Simon*

– *Hon. Janice R. Wilson*

12:00–1:15

LUNCH (on your own)

1:15–2:15

Tips and Traps in Securing Evidence from Government Sources

This program will outline some of the main methods of discovery used by lawyers to obtain testimony, documents, and demonstrative evidence in the control of governmental agents. It also will highlight several areas in which lawyers for claimants and governments continue to disagree over access, discovery, privilege, and admissibility of certain kinds of evidence, such as the personal electronic devices of governmental officials and employees.

– *Mary Beth Herkert*

– *Jenifer Johnston*

– *Margaret S. Olney*

SCHEDULE (cont.)

2:15–3:15

Tort Litigation: Obtaining and Preserving Evidence for Admission in Court

Many practical questions arise for lawyers in securing evidence for later admission. The speakers will offer suggestions drawn from their extensive practice experience for obtaining and preserving evidence, avoiding undue discovery expenses, and resolving disputes over discovery with a minimum of judicial involvement.

- *Heather C. Beasley*
- *Thomas D'Amore*
- *David F. Sugerman*

3:15–3:30

BREAK

3:30–4:30

Ethical Issues Involving Damaged, Altered, or Stolen Evidence

Use of altered or stolen evidence can quickly embroil a lawyer in a claim of dishonest behavior toward a court or judge, raising many ethical issues:

- How should a lawyer respond to a client's stated desire to hide, modify, or destroy evidence?
- What steps should lawyers take when they realize that clients or third parties have stolen or destroyed evidence?
- What document retention policies should a lawyer instruct a client company follow when the lawyer realizes that the client may face civil claims or regulatory enforcement proceedings?
 - *Susan Roedl Cournoyer*
 - *Peter R. Jarvis*

4:30 p.m.

ADJOURN

Program Faculty

Heather C. Beasley

Davis Rothwell Earle & Xochihua PC

Susan Roedl Cournoyer

Oregon State Bar

Thomas D'Amore

D'Amore Law Group

Hon. Robert D. (Skip) Durham

Program Co-Planner
Retired Associate Justice,
Oregon Supreme Court

Mary Beth Herkert

State Archivist, Archives Division,
Office of the Secretary of State

Hon. Daniel L. Harris

Harrang Long Gary Rudnick PC

Peter R. Jarvis

Holland & Knight LLP

Jenifer Johnston

Portland Office of City Attorney

Hon. Jeffrey S. Jones

Clackamas County Circuit Court

Hon. Marilyn E. Litzenberger

Program Co-Planner
Multnomah County Circuit Court

Margaret S. Olney

Bennett Hartman Morris & Kaplan LLP

Hon. Michael H. Simon

Program Co-Planner
United States District Court

David F. Sugerman

David F. Sugerman Attorney, PC

Hon Janice R. Wilson

Retired Senior Judge,
Multnomah County Circuit Court

LIVE PRESENTATION

Portland – November 21, 2014

Ambridge Event Center
1333 NE MLK Jr. Blvd.

MCLE CREDIT

Evidence: How to Get It and How to Use It will receive **5.75** General or Practical Skills and **1** Ethics MCLE Credits.

PROGRAM PRODUCTS

Even if you cannot attend, you can still get the program on CDs or DVDs. Use the order form in this brochure to order your set today! OLI Annual Passholders may purchase OLI program products at 50% off the full retail price.

QUESTIONS?

Please call OLI at (503) 768-6580 in Portland or toll-free in Oregon at (800) 222-8213, e-mail us at oli@lclark.edu, or visit our website at <http://go.lclark.edu/oli>.

Follow us on Twitter: @OregonCLE

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REGISTRATION / ORDER FORM

Evidence

How to Get It and How to Use It

Friday, November 21, 2014

Name _____ OSB No. or Profession _____

Firm/Organization _____

Street Address _____ City/State/Zip _____

Phone _____ E-Mail _____

Please "✓" appropriate box:

TUITION

Registration includes electronic course materials. Printed materials are available for an additional \$15.00.
(A link to a PDF of the materials will be emailed prior to the seminar date.)

Early registration (received by November 17, 2014)

- ☐ \$189 Early registration
- ☐ \$139 New attorneys (admitted 2012–2014), paralegals, and legal staff
- ☐ \$95 Legal aid attorneys
- ☐ \$15 OLI Passholder (Pass No. _____), Oregon judges and their lawyer staff, and law students
- ☐ \$15 Attorneys attending with their Mentor from an approved Bar Mentor Program (call OLI or go to <http://go.lclark.edu/oli> for details). Mentor's name: _____
- ☐ \$15 Print materials
- ☐ \$20 **Add to above tuition if registration received after November 17, 2014**

LIVE WEBCAST REGISTRATION

Can't attend in person? OLI offers a simultaneous live webcast option allowing you to "attend" the program from the convenience of your office. This program will be broadcast LIVE online on Friday, November 21, 2014, starting at **8:30 a.m.** Pacific Time. You may access this event from anywhere with an established internet connection. The webcast will include video and audio of the speakers and seminar handout materials. To register for the live webcast, please **click here** or go to our website at <http://go.lclark.edu/oli> and click on "Webcasts."

DVDs, CDs, AND COURSE BOOKS *I am unable to attend. Please send me:*

- ☐ \$209 Audio CDs and print course book
- ☐ \$309 DVDs and print course book
- ☐ \$59 Print course book only
- ☐ Deduct 50% from product order if you are an OLI Passholder (OLI Pass No. _____)
- ☐ **\$9.00 Note: Add \$9.00 shipping & handling fee to above product orders.**

ENCLOSED IS \$ _____ BY:

- ☐ Check payable to Oregon Law Institute (OLI)
- ☐ Credit Card: Acct. # _____ - _____ - _____
- ☐ VISA ☐ MasterCard ☐ Discover ☐ AmEx
- Exp. Date: _____ Signature: _____

Return this form with payment to:
OLI Registrar
Lewis & Clark Law School
10015 SW Terwilliger Blvd.
Portland, OR 97219

...or fax (503-768-6585) or e-mail
(oli@lclark.edu) this registration form to
OLI, including credit card information.

CONFIRMATION: Confirmation will be sent via e-mail.

CANCELLATION POLICY: Tuition minus a \$20 handling charge will be refunded if the cancellation request is written and received by Monday, November 17, 2014.

NEED ASSISTANCE: If you are a person with a disability, please let OLI know in time to make any necessary accommodations for you.

TUITION ASSISTANCE: A limited number of scholarships are available based on financial need. Contact OLI.