Trends in Eyewitness Identification

Protocols, procedures, and recent developments in eyewitness identification science, law, and practice

According to the Innocence Project, eyewitness misidentification is the single greatest cause of wrongful conviction nationwide. Out of 301 DNA exonerations to date, mistaken identifications account for almost 75% of those convictions. This alarming phenomenon was set out in stark relief last year when the New Jersey Supreme Court in its State v. Henderson Special Masters Report examined thirty years of scientific research on the reliability of eyewitness identification. The Henderson Report concluded that “the scientific findings...are reliable, definitive and unquestionably fit for use in the courtroom.” Legal recommendations suggested that courts handle eyewitness identification evidence in the same manner as trace evidence, and that the prosecution should have the initial burden at pre-trial hearings of producing evidence of reliability.

Jurisdictions across the country are starting to respond to New Jersey’s lead by reassessing their legal frameworks applied to ID cases, and Massachusetts is among them. In the aftermath of Henderson, the Supreme Judicial Court convened a special committee to study the science and the law regarding eyewitness identification and to make recommendations for change in our own courts’ treatment of these cases. A report to the SJC recommending changes is expected in the first few months of 2013. Also following on the footsteps of Henderson, on November 29, 2012, the Supreme Court of Oregon in State v. Lawson and State v. James established a new, alternative approach to determining admissibility of eyewitness identification evidence, utilizing its rules of evidence as an analytical framework.

The time for reform has undeniably arrived and this seminar prepares attorneys to hit the ground running. The seminar examines the ground-breaking decisions in Henderson, Lawson, and James, and reviews the foundational scientific research that was embraced by them. The recommendations of the SJC’s identification study committee (if available) are presented to alert attorneys to potential changes in their approaches to prosecuting and defending identification cases.

MCLE’s panel of experienced faculty provides up-to-date information from the defense and prosecution perspectives, as well as from the world of science and psychology. With this knowledge, attendees are able to help prevent wrongful convictions resulting from misidentifications, and ensure that only reliable identification evidence is admitted at trial.

Agenda and written materials

- Identification Procedures Reforms (Including Department of Justice Guidelines)
- System and Estimator Variables That Affect the Reliability of Identifications
- Discovery Relevant to System and Estimator Variables
- Motions in Limine and Motions to Suppress Identifications
- Updated Requests for Jury Instructions
- “Ask the Experts” Q&A Session

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- **Recorded Webcast:** May 9; 2130106RBC

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