E1 Whores of the Court – Revisited

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After attending this presentation, attendees will understand the criticisms of behavioral science expert testimony and evidence, the application of *Daubert* and its progeny to behavioral and other "soft" sciences, the controversies surrounding behavioral evidence, how behavioral experts work with the courts, the role of behavior in American jurisprudence, and emerging trends in scientific evidence and its admissibility as it relates in particular to human behavior.

In the United States alone, expert behavioral science testimony is presented in some 2.5 million civil and criminal trials each year. This presentation will impact the forensic community by demonstrating how by this measure, behavioral science is the most frequently applied forensic science; and it is also the most criticized and controversial. In 1997, Professor Margaret A. Hagen leveled her criticisms of behavioral testimony in her book **Whores of the Court: The Fraud of Psychiatric Testimony and the Rape of American Justice**. In this session, Professor Hagen with appear to reprise and sharpen her earlier criticisms.

Since Hagen's book was published, the *Daubert* holding and its progeny have changed the rules related to the admissibility of scientific evidence, and made judges gatekeepers with the power to bar experts proffering testimony and evidence that fails to meet proper scientific standards. While these changes have had an impact on the testimony presented to jurors, behavioral science testimony has not significantly abated. Prof. Jane Campbell Moriarty, the author of several books on behavioral evidence, will follow Hagen's presentation to provide a scholarly overview of the evolution of the U.S. Judiciary's acceptance and application of such testimony, as well as its varied consequences.

Psychiatrist William Bernet will continue with a presentation on the actual role and experiences of behavioral experts in practice and before the courts. Dr. Bernet will draw upon his extensive history formulating and presenting psychiatric testimony in civil and criminal litigation.

Carl N. Edwards, an attorney and forensic psychologist, will conclude the formal presentations with an overview of behavior and the law, tracing its history to before the founding of America, and discussing why the U.S. is unique in the world in its use of behavioral experts. The significance of human behavioral concepts in American jurisprudence, the legal distinctions between behavioral and other sciences, and the reasons why finders of fact turn to behavior experts will all be considered and placed in context to provide predictions as to where the courts will move in this controversial field during the years ahead.

These four presentations will be followed by a panel discussion in which forensic psychologist Daniel A. Martell, PhD and psychiatrist Robert Weinstock, MD will join the presenters.

Andre A. Moenssens, JD, LLM, Douglas Stripp, Professor of Law Emeritus, will moderate both the scientific presentations and the panel.

This session will not only provide a forum for the first serious debate of one of the most hotly contested issues in the forensic sciences, but it will provide an overview of the scholarly multidisciplinary research in the field, and examine conceptual and operational concerns fundamental to forensic sciences and their future as a whole. **Admissibility, Behavior, *Daubert***

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