



Jurisprudence Section – 2010

E45 A Judicial Perspective on Ethics for Forensic Experts: Basic Instincts and Beyond

Stephanie Domitrovich, JD, PhD, Sixth Judicial District of Pennsylvania, Erie County Court House, 140 West 6th Street, Room 223, Erie, PA 16501*

After attending this presentation, attendees who are experts will have a judicial perspective on the court's expectations as to their ethical roles and responsibilities to themselves, the court, their clients, and their communities.

This presentation will impact the forensic science community by teaching experts how judges and others view the expert's ethical roles and responsibilities.

This presentation will examine expert witnesses' ethical responsibilities and roles as to professional and personal integrity as well as to community expectations and restrictions. This presentation will cover: the expert's important role of independence and objectivity; coping and working with lawyers in preparation for trial; confidentiality and conflicts of interest as to whom do experts owe their primary loyalty; and handling discovery issues as to communication with adverse counsel, production of documents, and depositions where there is conferring off the record and instructions or directions are given by counsel. Best practices approaches will be discussed as to trial conduct regarding ex parte communications and excluded evidence so as not to back door court's rulings in motions in limine. The role of the expert as to specialized knowledge and assisting the triers of fact as educator as well as the expert's liability for negligence will be examined. Also discussed will be how unethical experts are sanctioned through: the parties of the litigation; by and of lawyers; by juries; by professional organizations; and by "outing" where the court excludes the expert's testimony on admissibility grounds in a written opinion and goes beyond mere exclusion as in the *Kumho* case. The malpractice of expert witnesses—emerging trend or aberration—will also be presented regarding professional liability standards as well as legal and policy rationales.

Ethics and Experts, Judicial Perspective, Forensic