



E11 Casework Peer Review Evidence: Understanding What It Really Means and When Such Evidence Will Be Precluded

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After attending this presentation, the attendees will learn about the different types of casework peer reviews that occur within the various forensic disciplines and the standards that define the meaning of each type of case review. Attendees will learn about the legal basis for excluding peer review testimony by the actual reviewer.

This presentation will impact the forensic science community by providing forensic scientists with examples of the problems and challenges they can face when testifying in court about peer reviews of their own casework. All stakeholders in the administration of criminal or civil justice – experts, lawyers, and judges – will benefit from learning about expert testimony, casework, and peer reviews; how it is disingenuous and misleading; and when courts will preclude such testimony.

Expert witnesses from various forensic disciplines often testify that their casework is subjected to peer review, without ever describing the particulars of the so-called “peer review.” Such testimony, generally elicited during direct examination, invariably conveys the impression that the testifying expert’s casework is regularly scrutinized and verified by another expert, and that some other, non-testifying expert independently examined the same evidence and reached the same conclusion as the testifying expert in the case at hand. Most lawyers seek to challenge such testimony by establishing that the casework peer review was not conducted anonymously and that the reviewer was a “friendly” colleague or co-worker, often working in the very same laboratory unit or office.

However, in most instances, expert testimony about casework peer review is misleading because the so-called “peer review” did not consist of a thorough and complete re-examination of the evidence, and often comprised little more than a “spell check.” Lawyers and trial judges frequently assume that the mere mention of the words “peer review” equates to a comprehensive, independent verification of a given opinion or conclusion. This presentation will clearly establish the fallacy of that assumption.

This presentation will examine expert testimony from actual cases to demonstrate instances of self-serving, disingenuous testimony about peer review(s) of casework that arise in criminal and civil cases. Although this presentation focuses on expert testimony concerning peer review of casework of forensic document examiners, the information disclosed in this presentation applies to many other forensic disciplines.

The ASCLD-LAB standard for performing case reviews, as well as a proposed standard for conducting case reviews that was drafted by the Scientific Working Group on Documents (SWGDOC) and submitted for approval to ASTM, will be examined and analyzed. Attendees will become knowledgeable about the different types of “peer review” occurring within the forensic community and the true meaning of each type of case review. Attendees will also learn about the legal basis for excluding peer review testimony by the actual reviewer.

Peer Review, Case Review, Disingenuous Testimony