



## Jurisprudence Section - 2015

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### **F29 Legal Update: Recent Court Decisions Declaring Testimony About Case Reviews Performed by Non-Testifying Experts to Be Inadmissible**

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After attending this presentation, attendees will be better informed about some recent court decisions and the evidentiary grounds that have led courts to declare that expert testimony about case reviews performed by non-testifying experts is inadmissible.

This presentation will impact the forensic science community by educating all stakeholders in the administration of criminal or civil justice — experts, lawyers, and judges — about the evidentiary issues that preclude expert testimony about casework peer reviews by non-testifying experts.

Expert witnesses from various forensic disciplines have often testified that their casework is subjected to so-called “peer review.” Such testimony, generally elicited during direct examination, is supposedly introduced for the purpose of demonstrating the quality assurance protocol employed in the testifying witness’ forensic laboratory prior to the issuance of a final report. Lawyers and trial judges frequently assume that the mere mention of the words “peer review” equates to a comprehensive reexamination of the evidence and an independent verification of a given opinion or conclusion; however, sometimes the so-called “peer review” comprises little more than a “spell check.”

Some lawyers have attempted to challenge such testimony by establishing that the casework peer review was biased and unreliable because it was not performed blindly, e.g., the reviewer was a “friendly” colleague or coworker, working in the very same laboratory unit or office; however, as some recent court decisions indicate, testimony about case reviews performed by non-testifying experts has been ruled inadmissible on evidentiary grounds, and lawyers, judges, and testifying experts need to know the impact of these recent court rulings.

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#### **Casework Reviews, Inadmissible Testimony, Bolstering**