



### D22 What to Do When a Client’s “Pet Theory” Conflicts With Good Forensic Science Practice

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**Learning Overview:** The goal of this presentation is to examine several scenarios in which conflicting “pet theory” situations have occurred between forensic scientists and attorneys. The various potential outcomes and solutions for resolving such conflicts are discussed so forensic experts may gain some insight into how to prevent such problems either before they occur or to minimize the damage once such situations have happened.

**Impact on the Forensic Science Community:** This presentation will impact the forensic science community by demonstrating to forensic engineers, scientists, criminologists, attorneys, and other professionals involved in either civil or criminal litigation the need to be aware of these potential conflicts, as well as ways to recognize and prevent significant problems before they cause damage to either the case being investigated, and/or to the career of the forensic expert.

Many forensic scientists and engineers work with attorneys as consulting experts. There are times when a plaintiff or defense attorney client, prosecutor, police investigator, or others in the legal system develop a pet theory about a case. Such theories may be based on economic, political, prejudicial, or other reasons. Sometimes they are based merely on ignorance or misinformation. There may be situations when the pet theory can be in direct conflict with the laws of physics, factual evidence, and/or common sense. This can present significant problems to an objective, honest, ethical forensic professional who is called upon to investigate and analyze such a case.

In the engineering sciences, the First Canon of Ethics states: “One’s First Duty is to the Public.” This also means the forensic expert should be objective, truthful, and only render observations and opinions within their areas of expertise that are based on facts and proven, reasonable, scientific evidence.

Therein lies a common potential conflict between the “objective forensic scientist” who should have no personal or financial interest in the ultimate outcome of a case, and the “attorney advocate” who intends to win for his client, and often be compensated monetarily, by whatever legal means are available. This can become especially difficult if the forensic scientist is being paid by an attorney who is more interested in finding support for a pet theory that may be unsupported by anything resembling good science, than in following whatever path the evidence takes based on the expertise and scientific method utilized by the forensic scientist.

The foregoing difficult situation becomes even more strained when considering *Daubert* and other challenges to an expert’s scientific method and opinions. The expert’s career can often hang in the balance.

Attorneys may promise to support objective testing and other research to support an expert’s work and opinions, only to withdraw such support after the expert has been retained and begun investigating the case. This can have serious repercussions if the expert is prevented from establishing scientific fact that clearly supports the theories or goals of the client.

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#### Forensic Science, Pet Theories, Scientific and Engineering Ethics