

WORKSHOPS

Pre-Registration Required by Jan. 30

W23 Report Writing in a New Rule 702 World—Handwriting Comparison Examination

Tuesday, February 14, 2023

8:30 AM – 12:30 PM

CE Hours: 3.75

Learning Overview: Upon completion of this workshop, participants will be able to understand the potential impact on admissibility of expert testimony under a proposed new Rule 702. Participants will also be introduced to new ideas in report writing and, more importantly, the reasoning behind these changes. The contents of reports will hold added importance under the new Rule 702. Participants will also have begun the process of gaining foundational experience in making these changes to their reports so that the reaction by the forensic community can be proactive rather than reactive. In addition, laboratory management will be aware of the potential to all forensic disciplines and proactively engage all disciplines in the necessary report modifications with sufficient time to develop foundational experience.

Impact Statement: Changes in Rules of Evidence pertaining to the admissibility of expert testimony have historically been accompanied by wide-ranging and diverse rulings from courts across the country as the judiciary struggles with the impact of these changes. It should be anticipated that non-uniform rulings will also accompany changes to Rule 702 of the Federal Rules of Evidence and any corresponding changes to state rules of evidence. This workshop will impact the forensic science community by providing an increased understanding of the likely results of the rule changes, which will allow forensic scientists to proactively address the coming challenges by answering questions before they are asked. As a result, proactive responses to the rule changes will decrease rulings of unnecessary exclusions or limitations.

Program Description: Recently, an advisory committee for the Judicial Conference of the United States' Committee on Rules of Practice and Procedure recommended significant changes to Federal Rules of Evidence Rule 702, pertaining to the admissibility of expert witness testimony. While this specific recommendation is for federal jurisdiction, such changes commonly trickle down to state jurisdictions, and no exception can be expected for this matter. As such, it is important for forensic scientists to be aware of the changes and how they may impact testimony in the near future. It is anticipated that the new rule, if passed as expected, will take effect around December 2023. One of the main changes is the added emphasis for a judge's gatekeeping role for each individual proffer of expert testimony, and it is anticipated that judges will become active in that responsibility under the new rule. So how will that affect forensic science testimony? When the United States Supreme Court changed the basic admissibility requirements for expert testimony based on Frye to what is now called the Daubert Guidelines, the judiciary responded with less-than-uniform rulings. The results were a marked increase in exclusions in spite of the overall statement that Daubert was supposed to be a "lower" bar than Frye. While we cannot predict the future under any modified Rule 702, we can certainly look to bolster our report writing in order to proactively minimize any potential negative impacts that could occur. This workshop will explore the potentials and provide recommendations for writing reports that will help stand the test of future Rule 702 scrutiny.

Thomas W. Vastrick, BSc
Apopka, FL

Co-Chair:
Kevin P. Kulbacki, MSFS
KDX Forensic Consulting, LLC
Chicago, IL

Target Audience: Questioned Documents

Knowledge Level Required: Basic

Program:

8:30 AM – 9:00 AM	Overview of Challenge <i>Thomas W. Vastrick, BSc</i>
9:00 AM – 10:00 AM	Recommendations and Bases <i>Thomas W. Vastrick, BSc</i>
10:00 AM – 10:20 AM	BREAK
10:20 AM – 12:00 PM	Writing the Report Principles <i>Thomas W. Vastrick, BSc; Kevin P. Kulbacki, MSFS</i>
12:00 PM – 12:30 PM	Discussion <i>Thomas W. Vastrick, BSc; Kevin P. Kulbacki, MSFS</i>