

Case Consultation

PAPE & ASSOCIATES

Specializing in Toxicology

Case Consultation

Alcohol-related Cases

**Test Reliability
Total Alcohol Consumption
BACs at Specific Times
Expected Effects
Expected Risks**

Patient Drug-related Cases

**Test Reliability
Time of Last Use
Prior History and Drug Test Results**

Postmortem Toxicology

**Specimen selection and collection
Postmortem processes
Drug:Metabolite Relationships
Time of Last Drug Use
Premortem Drug Concentrations**

**Discovery
Review of Laboratory Data
Request for**

Report for Mediation

Examination of an Expert

**Deposition
Voir Dire
Cross-examination**

Toxic Torts

Call Dr. Pape at (800) 736-0503

TOXICOLOGY NOTE

Case Consultation:

Cost-effective options

Tools: Report Review, Knowledge of Prior Testimony, Approach to Deposition and Voir Dire, Science-based Explanation, Exhibits, and Cross-examination

An experienced toxicologist can assist in the review of *The Six Questions* in a liquor liability case including learned behavior and behavioral modification.

Report review and prior testimony of an expert

Your expert should be able to effectively critique an expert's report and comment regarding its defensibility and the expert's prior testimony or case-reports.

Consultation related to depositions

Consider comparing two lines of inquiry when questioning companions – the patron's usual reaction to alcohol consumption in a commercial environment and a residence or at a party.

Topic-specific scientific studies

Topics might include the reliability of the extrapolation of BAC, BACs and expected alcohol-related effects and person-to-person variability including tolerance and/or evidence of learned behavior or behavioral modification.

Preparation for mediation including exhibits related to *The Six Questions* in most liquor liability cases and/or topic-relevant reports based on case evidence and generally accepted, peer-reviewed science.

Deposition of an expert

Consider a strategic approach such as “gently” testing the expert with regard to factors related to differences between individuals and when-and-how individuals might display or might control alcohol-related effects.

Voir dire of an expert

Get the case file and review it; then consider a more aggressive test of the expert's knowledge of topics including behavioral factors.

Cross-examination of an expert

Consider the expert's services and prior testimony, case-assumptions compared to case-evidence and science-based principles, knowledge of the relevant scientific literature, challenge questions calling for a “yes” or “no” answer, and review of generally accepted principles and studies as well as common sense examples.

Exhibits for trial testimony or cross-examination

TOXICOLOGY NOTE

Liquor Liability:

Topics for a mediation-only case report

Potential Topics:

Information regarding persons-places-times-events and observations-and determinations and the case relevance of this information

Test results for alcohol and drugs

Calculation of the total alcohol consumption based on person-specific factors (age-weight-height-sex), the timeline of alcohol consumption, and alcohol test results and comparison with information (e.g. statements, receipts, testimony) regarding the who-where-when and the amounts of alcohol consumed by the subject at each location

Drug use including the estimation of the time of the last use and the comparison of reported drug-related effects and the subject's prior history of drug use

BAC at the time of the accident or incident, when leaving the establishment-of-interest, and when last served alcohol at each establishment

Alcohol-related effects based on the subject's BAC and alcohol history, and comparison with relevant reports-statements-or-testimony

Acquired tolerance to alcohol and learned or modified behavior based on prior history and information regarding appearance-behavior-demeanor

Reasonable expectations-explanations-inferences related to the subject's alcohol/drug history, the case background, consumption, estimates of BACs, and information relating to the subject's appearance-behavior-demeanor

Other expert report(s) including the expert's reliance on implicit and explicit assumptions

Reasonable conclusions

The preparation of a report or summary for mediation

Peer-reviewed literature and topic-related illustrations

Often times, a written report for mediation should not focus on calculations which are obvious or unavoidable – rather, it should focus on reasonable explanations consistent with the case evidence regarding the patron's appearance-behavior-demeanor, history, and generally accepted medical and scientific principles and studies.

