

Description of Services

Initial Telephonic Case Review – No Charge

You are encouraged to call Dr. Pape to discuss a potential case assignment.

Assuming that no case-specific conflict exists, our discussion can include the general nature of the case, relevant case-specific information or hypotheticals, approaches to the consideration of case-specific questions, initial impressions or conclusions, and recommendations or requests.

Please refer to General Guidelines (below) regarding matters including obligations and services.

As a result of an initial discussion of a potential case assignment, Dr. Pape will usually recommend one of two approaches to an engagement. These options follow.

Option: Expanded Initial Case Review and Consultation (ICR&C)

Example: An alcohol-related case

The more frequently requested case analysis is focused on five questions: (1) test reliability, (2) the estimation of the total amount of alcohol consumed, (3) the estimation of BACs at relevant times, (4) the expected effects of alcohol, (5) the risk of accident or injury or incident, and (6) the comparison of alcohol-related case evidence and estimates with other case evidence.

Example: A fatal drug-related case

Case-related questions include the selection and collection of postmortem specimens, the estimation of the time-course and amounts of drugs consumed, potential confounding factors including postmortem redistribution of drug levels, and drug-related effects.

Example: A toxic tort case

Initial case review and consultation is often the most appropriate and cost-effective starting point. Examples of prior case assignments include carbon monoxide and neuropsychological effects, isocyanates and reactive airway disease, and chlorinated hydrocarbon solvents. *An initial telephonic consultation is requested.*

Option: Retainer providing for expert disclosure, written report, and testimony

All services including written report or expert disclosure, requests for and review of discovery, technical consultation, examination of witnesses, and expert testimony may be requested.

Request for and Review of Discovery

Assisting in the preparation of requests for comprehensive discovery including technical methods, laboratory data, and internal and external quality assurance; and he can compare the information provided with generally accepted guidelines and the requirement for a reasonable degree of scientific certainty.

Technical Consultation

Providing technical consultation including the definition of requirements for and standard operating procedures and policies relating to the reanalysis or independent analysis of physical evidence.

Written Report

The requirements for the style of a written report or disclosure should be discussed with Dr. Pape.

Review and Summary of Scientific Literature

Relying on computerized data bases to cost-effectively search-retrieve-and-review topic-specific scientific studies that have been peer-reviewed; and he can assist in the development of illustrations or exhibits for mediation or trial.

Examination of Witnesses

Consulting with regard to case-specific approaches to the examination of witnesses includes deposition, voir dire, and cross-examination based on peer-reviewed and generally accepted science.

Expert Testimony

Dr. Pape is usually available to testify at trial.

General Guidelines

General Guidelines relating to initial phone consultation, case information, physical evidence, written communications, status updates, and requests for reservation of availability for testimony, and charges and billing follow.

Initial phone consultation: A request for information or a general discussion of topics relating to different types of cases or an exchange of information or a discussion that might otherwise relate to a specific case does not create or carry with it an obligation by Dr. Pape to restrict-limit-prohibit his case-specific services in the event that you and Dr. Pape do not formally agree to his engagement as a consultant or expert in the same or a directly related case. If you have any questions or reservations regarding this understanding, please discuss them with Dr. Pape.

A conflicts check should be done prior to a discussion of case-specific information; do not forward case materials without Dr. Pape's prior agreement; and as a usual practice, only case-specific information generally available to all legal counsel involved in the case should be discussed. If you have any questions or reservations regarding this recommended practice, please discuss them with Dr. Pape. Dr. Pape should not be identified or in any way associated with a case without his prior expressed written agreement or his acknowledgement of a case-specific engagement.

Expanded Case review and consultation: If Dr. Pape is not initially retained as an expert but is asked only to provide for expert review and consultation, the minimum charge is equivalent to four

hours. If he is then retained at a later date, the additional fee to retain his services is equivalent to five hours. This non-refundable retainer following review-and-consultation is payable when Dr. Pape is named as an expert or associated with the case and this retainer is applied towards future charges relating to the case.

Retainer: A retainer is required when Dr. Pape is named or in any way referred to as an expert consultant or potential expert witness. This is usually more cost-effective than the total charge for a two-step process consisting of case review-and-consultation (see below) and, when appropriate and agreeable to all parties, a reduced retainer following case review and consultation.

Testimony: The reservation of date-ranges for testimony should be discussed with Dr. Pape. Agreements can include in-region availability for testimony and return-to-region for testimony. *Agreement regarding the date-range, prior notice, communications, and anticipated charges is required.*

Billing: The usual practice is to bill legal counsel for services. *It is assumed that legal counsel is responsible for payment for services unless Dr. Pape agrees to some other arrangement.*

Authorization and guarantee: It is assumed that your firm authorizes and guarantees all services that are requested or reasonable. Dr. Pape's usual practice is not to exceed the case retainer without obtaining verbal or written authorization or providing the client with an estimate of the anticipated charges.

Information: Case information should be provided as it becomes available. Examples include the complaint, police- fire-ambulance-EMT records, medical and laboratory records, witness statements, deposition transcripts and exhibits, expert disclosures and reports, interrogatories and answers, and test-related discovery.

Media: If information is provided via CD or e-mail, there may be a charge for printing.

Physical evidence: Do not send any physical evidence without prior written permission.

E-mails: You can request a return-reply acknowledgment of the receipt of an e-mail

Expert report: The need for an expert report or disclosure should be discussed with Dr. Pape.

Overnight mail: Federal Express or U.S. mail is recommended. The signature requirement should usually be waived.

Special requests: Advance notice will reduce costs.

Case status: Please keep Dr. Pape informed regarding “drop-dead” dates. A sixty day notice of trial testimony is requested.

More detailed information: Requests for more detailed information regarding Dr. Pape’s charges and/or example illustrations of minimum-maximum line-item estimates for services such as deposition or travel-and-testimony should be discussed with Dr. Pape.

Dr. Brian Pape

Brief Summary of Employment and Professional Qualifications

Present Position: Pape & Associates (*Specializing in Toxicology*)

Associate Professor, University of Massachusetts Medical School (Worcester, MA) (*Clinical / Courtesy Appointment*)

Senior Associate Consultant, Mayo Clinic (Rochester, MN); and, Director of Toxicology at New England Toxicology Services (Woburn, MA)

Associate Professor of Pathology, University of Missouri Medical School (Columbia, MO) and Director of Toxicology (*tenured faculty*)

Graduate Research Assistant, Pesticide Research Center, Michigan State University (E. Lansing, MI) Area of Concentration: Toxicology and Pesticide Chemistry

Dr. Brian Pape founded Pape & Associates, specializing in toxicology and related sciences. His prior responsibilities have included the following:

Teaching-research-and-service responsibilities as Director of Toxicology, providing for alcohol-and-drug testing, clinical and forensic consultation, laboratory inspection, and consultation relating to clinical-environmental-and-forensic testing.

Director of a 24-hour a day, seven day a week toxicology laboratory providing services to more than 40 hospitals in the New England region.

Dr. Pape has published more than 50 research papers, abstracts, and professional articles relating to alcohol and drugs, pesticides and toxic chemicals, analytical chemistry, forensic science, and toxicology. He has served as a technical and expert consultant to business, labor, and governmental agencies. He has been qualified as an expert in toxicology and related sciences in district, superior, and federal courts. *A general summary of his case-related activity is available.*

His expertise has been recognized by academic and professional societies including clinical, analytical and forensic toxicology. *A more complete review of his professional history and publications is available.*

The great majority of Dr. Pape's work involves civil litigation or claims relating to alcohol and drugs and selected toxic torts. He does accept some criminal cases.

Your Reference Notes