EDITOR’S NOTE

This issue provides two articles and a book review dealing with expert witnesses and their interactions with courts and judges.

Our lead article, from Professor Andrew Jurs, reviews the results of surveys he conducted with judges in six states. Jurs wanted to compare how judges handled expert-witness issues in states using the traditional admissibility test of Frye v. United States, 293 F. 1013 (D.C. Cir. 1923) (adopting the general-acceptance standard), and in states using the factor test announced in Daubert v. Merritt Dow Pharmaceuticals, Inc., 509 U.S. 579 (1993). As judges, we often are unaware of whether we are in the mainstream among judges or are outliers. If you sometimes decide whether an expert’s testimony is admissible under the standards applicable in your jurisdiction, we think you’ll find of interest how judges are applying both the Frye and Daubert standards today.

Next, a group of researchers in the Department of Psychology at Drexel University reviews the use of information from third parties in psychological or psychiatric evaluations. Such information may be used by experts in child-custody evaluations, evaluations of competence to stand trial, risk assessments, civil-commitment proceedings, and other cases. The researchers discuss limitations that experts should recognize in their use of this information as well as the legal standards judges must apply. To the extent that admissibility is determined by practice in the field, the researchers conclude that the use of third-party information in forensic mental-health evaluations is “strongly supported within the fields of forensic psychology and forensic psychiatry.”

For those interested in a detailed review of forensic mental-health assessments in legal proceedings, Judge John W. Brown and attorney Benjamin K. Hoover review the book Forensic Assessments in Criminal and Civil Law. The review specifically examines this book as a resource for judges.

Our issue concludes with consideration of the use of peremptory challenges to eliminate potential jurors based on their sexual orientation. Law student Colin Saltry considers how the standards of Batson v. Kentucky, 476 U.S. 79 (1986), which prohibits race-based peremptory challenges, might be applied in this context.

This is the first issue with my new coeditor, Eve Brank. Eve and I welcome your suggestions for future issues. Feel free to correspond with either or both of us by email (sleben56@gmail.com; ebrank2@unl.edu).—SL