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The Role of Specialized Knowledge in Expert Testimony: Insights from Psychology and Legal Precedents

Jonathan Gould, PhD, ABPP

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[Read More](#)

New Online Training!

Safety First: Strengthening Family Law Responses to Violence and Coercive Control

June 16-17, 2025

AFCC is pleased to offer an all-NEW comprehensive online training program focused on family violence. Safety First: Strengthening Family Law Responses to Violence and Coercive Control is a two-day, 15.5-hour intensive online training designed to meet the urgent need for clarity, consistency, and accountability in how professionals understand and respond to family violence within the family law system.

Participants will explore:

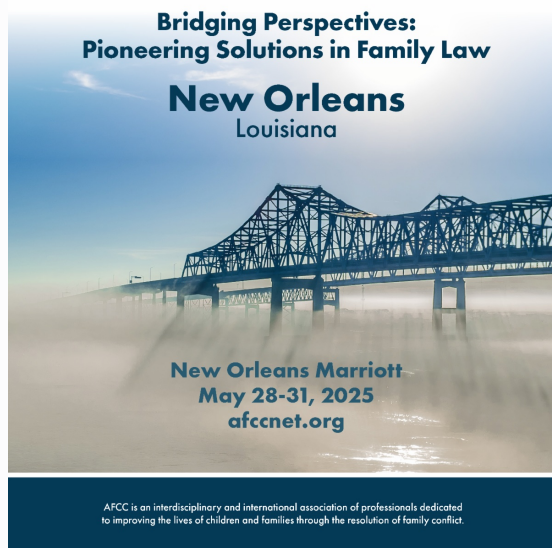
- Evolving definitions of family violence and the implications of “concept creep”
- Trauma-informed screening tools and risk assessment strategies
- The unique and often invisible nature of coercive control
- Culturally responsive approaches for working with immigrant racialized and marginalized families
- The developmental impacts of violence on children
- The design of parenting plans that reflect safety, accountability, and healing

[Register Now!](#)



Join AFCC Board members Mindy Mitnick and Liberty Aldrich for a candid conversation about their paths to professional growth, the lessons they've learned, and how they became leading voices in family law.

[Watch the Video!](#)



62nd Annual Conference

Bridging Perspectives: Pioneering Solutions in Family Law

May 28-31, 2025 | New Orleans, Louisiana

There is still time to register for our 62nd Annual Conference in New Orleans! Join us as we convene the world's leading experts to build bridges that span the gaps between professional approaches and priorities.

See the [conference portal](#) for more detailed information and register before May 5 for better rates!

How We Think as Evaluators and Clinicians: Update on Clinical Judgement Research

Jeffrey P. Wittmann, PhD

May 6, 2025

Using Mediation/Arbitration to Resolve Parenting Disputes: Benefits, Challenges & Other Considerations

Barbara Fidler, PhD, CPsych

June 24, 2025

Registration

Members: \$15

Non-Members: \$50

Certificate of Attendance

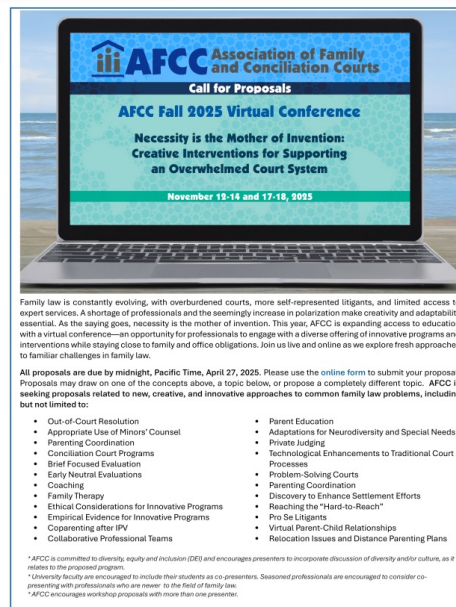
Members: \$15

Non-Members: \$20



Call for Proposals

Deadline: April 27, 2025!



Fall 2025 Virtual Conference

November 12-14 and 17-18, 2025

Family law is evolving—overburdened courts, self-represented litigants, and limited access to services demand creative, adaptable solutions. As the saying goes, necessity is the mother of invention.

Have an idea for a 90-minute workshop?

AFCC wants to hear it! Submit your proposal by **Sunday, April 27, 2025, at midnight PDT** using the [online form](#).

Member News



Archana Medhekar, AFCC member from Ontario, was awarded the Immigrant Entrepreneur of the Year 2024 award at the CanadianSME Small Business Awards! Archana has established a client-centered family law practice that empowers vulnerable communities through trauma-informed and culturally sensitive services. Her commitment to social justice, community leadership, and accessible legal support is making a meaningful impact on Canada's legal landscape. Congratulations, Archana!

In Memoriam



AFCC is deeply saddened to share the passing of longtime member and past president of the AFCC Minnesota Chapter, **Jack DeWalt**, who died on March 16, 2025, following a brief but courageous health battle. Jack was a respected family and tribal law attorney known for his compassion, integrity, and unwavering commitment to justice. He served as a mentor to many, an advocate for underserved communities, and a thoughtful problem-solver in complex family law cases. His contributions to the field and to the AFCC community leave a meaningful and lasting impact.

Chapter News



The **New Jersey Chapter** recently awarded Holly Friedland, Esq. with the Phil Sobel Award. This prestigious award recognizes individuals who are committed to advancing the practice of family law. Holly exemplifies this dedication through her unwavering focus on improving the lives of children and her proactive efforts to resolve cases in ways that serve their best interests. Congratulations, Holly!



Congratulations to the **Alberta Chapter** on a fantastic conference! You can get a glimpse of this fantastic event by looking at the album on AFCC's [Facebook](#).

Upcoming Chapter Events

AFCC Washington Annual Conference

April 25-26, 2025
Seattle, WA

AFCC Colorado Spring Conference

April 25, 2025
Lakewood, CO

Family Court Review

The Journal of the Association of Family and Conciliation Courts
Volume 63 Number 2
April 2025

Leading dialogue in family court research, policy, and practice for more than half a century.

The **April 2025 issue of Family Court Review** is set to be fully released soon. However, you can access articles that have already been published online in the FCR digital archives. **Visit the archives** to explore the content ahead of the full issue release and gain early insights into the topics and scholarship featured in this issue.

[Visit the FCR Archives!](#)



2025 AFCC-AAML Conference on Advanced Issues in Child Custody: Evaluation, Litigation, and Settlement

September 18-20, 2025 | San Francisco, CA

[Register Now!](#)

Membership Notice of Board Nominations

At the AFCC membership meeting on Saturday, May 31, 2025, the following individuals will be nominated to serve on the AFCC Board of Directors for terms beginning July 1, 2025: David Blacker, Hon. Randall Fuller, April Harris Britt, and Mark Juhas. Kathleen McNamara and Herman Walker will also be nominated to continue serving on the board for another 3 year term. The AFCC Executive Committee is elected by the board of directors. For informational purposes, the following individuals have been nominated for positions on the executive committee: President Elect: Tom Altobelli; Vice President: Kathleen McNamara; Secretary: Herman Walker; Treasurer: Lawrence Jay Braunstein. Dolores Bomrad and Michael Saini will automatically become President and Past-President, respectfully.

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The Role of Specialized Knowledge in Expert Testimony: Insights from Psychology and Legal Precedents

Jonathan Gould, PhD, ABPP

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Expert testimony plays a crucial role in legal proceedings, providing courts with the knowledge needed to interpret complex issues. In cases such as child custody disputes, the insights offered by psychologists can significantly influence judicial outcomes. However, for such testimony to be admissible and reliable, it must be based on sound principles, scientific methods, and established professional knowledge. This article explores the legal framework surrounding expert testimony and the importance of scientific rigor in psychological evaluations.

Defining Specialized Knowledge

Specialized knowledge encompasses facts and expert insights derived from systematic methods, rather than opinions, speculation, or subjective beliefs. The courts have developed key standards to ensure that expert testimony meets criteria of reliability and relevance. The term "scientific knowledge" is particularly significant in this context, as it implies adherence to scientific processes that are grounded in data collection, testing, and validation.

Legal Milestones in Defining Expert Testimony

Several landmark court cases have shaped the current approach to expert testimony:

1. **Daubert v. Merrell Dow Pharmaceuticals (1993):**
This case established the "Daubert Standard," which requires that scientific testimony be based on reliable methods. The U.S. Supreme Court emphasized the importance of peer review, testability, and general acceptance within the scientific community.
2. **General Electric Co. v. Joiner (1997):**
This case clarified that trial judges have discretion in determining the reliability of expert testimony. It also established that courts could evaluate both the methods used and the conclusions reached by the expert.
3. **Kumho Tire Co. v. Carmichael (1999):**
This decision extended the Daubert Standard to all types of expert testimony, including technical and experiential knowledge. The Court ruled that judges must ensure that any expert testimony, whether scientific or not, meets the same reliability standards.

These cases collectively underscore that expert testimony must rest on a reliable foundation, regardless of whether the expertise is drawn from scientific research, technical expertise, or professional experience.

Understanding the Legal Evolution of "Scientific Knowledge" in Expert Testimony

The definition of "scientific knowledge" and its relevance to expert testimony has undergone significant refinement in U.S. legal history, beginning with the Supreme Court's landmark decision in *Daubert v. Merrell Dow Pharmaceuticals, Inc.* (1993).

The Daubert Decision: Establishing "Scientific Knowledge"

In Daubert, the U.S. Supreme Court redefined the standard for the admissibility of expert testimony under Federal Rule of Evidence 702. The term "scientific" was interpreted as requiring a foundation in the methods and procedures of the scientific method. The Court made it clear that "knowledge" refers to more than subjective belief or speculation—it must be rooted in known facts or ideas inferred from accepted truths.

However, the Court acknowledged that science rarely deals in certainties and that the absence of certainty does not disqualify findings as "scientific knowledge." Instead, to qualify as such, an assertion must be derived through scientific methods and supported by appropriate validation or "good grounds." This standard laid the foundation for evidentiary reliability and established that expert testimony should meet a threshold of scientific rigor.

Criticisms and Concerns Regarding Judicial Expertise

Despite its attempt to clarify the nature of "scientific knowledge," Daubert faced criticism from legal scholars who argued that judges lacked the necessary scientific expertise to effectively assess scientific methods and validity. The ruling placed a significant responsibility on trial judges to act as gatekeepers, determining the relevance and reliability of expert testimony.

The Joiner and Kumho Tire Decisions: Expanding the Scope

In *General Electric Co. v. Joiner* (1997), the Court reinforced that Daubert's principles applied not only to the final conclusions of trial courts but also to the processes used to assess the reliability of testimony. The ruling granted broad discretion to trial judges in determining whether the factors outlined in Daubert were reasonable measures of reliability in any given case.

Emphasis is on Knowledge Not Scientific

The question of whether Daubert applied exclusively to scientific testimony was resolved in *Kumho Tire Co. v. Carmichael* (1999). The Supreme Court clarified that Daubert's framework extended to all expert testimony, including technical and specialized knowledge. The Court emphasized that Federal Rule of Evidence 702 made no distinction between "scientific," "technical," or "other specialized" knowledge. Consequently, any form of expert testimony—whether derived from scientific research or specialized professional experience—was subject to judicial scrutiny for reliability.

Contextual Application of Reliability Standards

The *Kumho Tire* decision underscored that the reliability factors listed in Daubert (such as testability, peer review, error rates, and general acceptance) may or may not be relevant depending on the type of expertise and testimony involved. The Court concluded that assessing the reliability of expert testimony is a case-specific task. Judges are granted flexibility in determining which factors, if any, are applicable based on the nature of the expert's methodology and the issues at hand.

Application of Kumho to Expert Testimony

Each mental health profession defines, in some ways, the basis for the scientific- or evidence-basis of their discipline. As a psychologist who provides expert witness testimony, my understanding of what constitutes specialized knowledge is a critical aspect of my approach to court testimony. Psychologists' ethical code requires opinions to be based upon "established scientific and professional knowledge of the discipline."¹ It is psychologists' ability to

communicate to the court the established scientific and professional knowledge of the discipline that defines psychologists' specialized knowledge. Therefore, I argue that the basis of all psychological expert testimony must be based upon the established scientific and professional knowledge of the discipline that is found in the published, peer-reviewed literature. Testimony that deviates from the published, peer-reviewed literature is very likely outside the proper scope of expert testimony.

Integrating Science and Experience

The progression of judicial thinking from Daubert to Kumho Tire mirrors the scientific process itself, where ideas are refined through research, validation, and reflection. Just as scientific findings are assessed in the context of their real-world applicability, the legal system has evolved to interpret the admissibility of expert testimony through a blend of evidence-based findings and practical experience. A reasonable reading of the case law suggests that effective expert testimony relies on the integration of scientific research with professional judgment to address the specifics of a case.

The Psychologist's Role in Court

Psychologists, as expert witnesses, have an ethical obligation to base their opinions on established scientific and professional knowledge. The American Psychological Association's (APA) ethical standards require transparency in the reasoning behind their conclusions. This means that psychologists must articulate how they gathered data, integrated findings, and arrived at their opinions. They should also be prepared to explain the limitations of their methods and acknowledge potential alternative explanations.

Science as Process vs. Science as Fact

It is important to distinguish between science as a process and science as a collection of facts. The scientific process involves systematic observation, hypothesis testing, and continual refinement of theories. In contrast, facts are the outcome of this process. Legal proceedings often focus on facts, but for expert testimony to be credible, it must reflect the rigorous process behind the discovery of those facts. In child custody cases, for example, the focus should not simply be on presenting conclusions but on demonstrating that those conclusions were reached through reliable and unbiased methods.

Challenges in Child Custody Evaluations

Child custody evaluations are among the most challenging types of forensic assessments. These evaluations involve assessing the behavior, emotional stability, and parenting capacities of multiple individuals, including parents, children, and other caregivers. Several factors make this process complex:

- **High emotional stakes:** Parents may attempt to present themselves in a favorable light while portraying the other parent negatively.
- **Potential biases:** Evaluators must guard against their own biases and avoid being swayed by emotionally charged narratives.
- **Multiple data sources:** Evaluators must synthesize information from interviews, psychological tests, and collateral sources to form a comprehensive view of family dynamics.

Due to these complexities, child custody evaluators must prioritize scientific methods that minimize errors and account for bias.

The Importance of Objectivity and Transparency

Maintaining objectivity is crucial in forensic psychological evaluations. The ethical guidelines for psychologists emphasize intellectual honesty and openness to the possibility of error. The scientific method inherently requires evaluators to consider alternative hypotheses and avoid drawing conclusions based solely on assumptions or incomplete data.

In custody cases, evaluators must also consider the broader implications of their findings and ensure that their recommendations align with the best interests of the children involved. This requires a careful balancing of empirical evidence, professional judgment, and an understanding of the unique circumstances of each case.

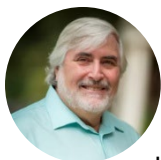
Bridging Science and Experience in Expert Testimony

A key takeaway from legal precedents is that effective expert testimony often results from the integration of scientific research with practical experience. While scientific findings provide a foundation of knowledge, real-world experience helps experts interpret and apply these findings to specific cases. Judges seek clarity not just in what experts conclude, but in how they arrived at their conclusions. As Justice Alex Kozinski noted in the Ninth Circuit's ruling in *Daubert*, "The task for judges is to analyze not what the experts say, but what basis they have for saying it."

Conclusion

The legal evolution from *Daubert* to *Kumho Tire* demonstrates an ongoing effort to balance scientific rigor with judicial pragmatism. By broadening the scope of expert testimony to include technical and experiential knowledge, the courts have embraced a more holistic approach to evidentiary reliability. This approach acknowledges that while science provides a critical framework for understanding the world, the interpretation and application of scientific and technical findings in court require both expertise and judicial discretion. As legal and scientific disciplines continue to intersect, the framework established by these pivotal decisions will remain essential to ensuring that expert testimony serves the pursuit of justice.

The evolution of legal standards for expert testimony reflects an ongoing effort to ensure that expert opinions presented in court are reliable, relevant, and scientifically sound. For psychologists serving as expert witnesses, this means adhering to ethical guidelines and applying scientific methods to ensure the credibility of their testimony. By integrating evidence-based research with professional experience, psychologists can provide courts with the reliable insights needed to make informed decisions, particularly in complex cases such as child custody disputes. Ultimately, the intersection of law and science highlights the shared commitment to seeking truth and achieving justice.



Jonathan Gould, PhD, ABPP, is a board-certified forensic psychologist specializing in psychological and psycho-legal issues in the area of family law. He has extensive experience in child custody and parental fitness evaluations, trial consultation, work product review, and expert witness testimony. He has authored or co-authored seven books and more than 100 peer-reviewed articles. His most recent work, co-authored with Chris Mulchay, PhD, ABPP, is entitled: *Parenting Plan Evaluations: An evidence-informed approach to child custody* and will be published by the American Psychological Association in the fall of 2025.