

Expert witness sues critics

The case raises the question of who can best review expert testimony: courts or professional societies?

By Tanya Albert, AMNews staff. June 28, 2004.

California internist and geriatrician John Fullerton, MD, says a request for the Florida Medical Assn. to review his expert testimony in a medical malpractice trial defamed him and hurt his professional credibility.

Earlier this month, Dr. Fullerton sued the FMA and three physicians who asked that the association review his testimony for defamation. He also is asking the court to put an end to an FMA program that subjects courtroom testimony to peer review. Dr. Fullerton believes that the program is designed to intimidate physicians who testify for plaintiffs in medical malpractice trials and is suing, in part, under the Florida RICO law.

ADVERTISEMENT

"I certainly didn't want things to get to this point, but they have," said Dr. Fullerton, who practices in San Francisco and has testified for both plaintiffs and defendants. "I didn't think I could put up with the intimidation tactics anymore in Florida. There is real medical malpractice going on out there, and it's up to doctors to offer their expertise."

Dr. Fullerton's lawsuit comes at a time when an increasing number of medical societies and other independent organizations are pushing for physicians to more closely scrutinize physician expert witness testimony through peer review. While the American Assn. of Neurological Surgeons has had a program for nearly 20 years, Florida, California, North Carolina and Washington are among states that have recently started to take a closer look.

"This is not an appropriate area for associations to police," said James F. McKenzie, a Pensacola, Fla., attorney who is representing Dr. Fullerton. "The only reason it is done is to intimidate witnesses."

[...]