



For Crying Out Loud — Don't Panic!!

By: Pat A. Wertheim

I'm not sure how many judges there are in the US at the various levels of court in which fingerprint evidence might be presented, but I suspect the number is in the tens of thousands. Do you honestly believe there is unanimity on that multitude of benches? There are judges who are completely fair and unbiased, there are judges who are more often favorable toward the prosecution, and there are judges who bend over backwards for the defense. Does this fact surprise you? It shouldn't. Keep in mind that for over two years, latent print evidence has prevailed as admissible under Daubert in every single challenge. So now, over two and a half years after the Mitchell case, one judge in one jurisdiction finds in favor of the defense. Wake up, Chicken Little, the sky is not really falling. I'm not saying we should laugh off the Acosta

ruling. But I am saying we need to put things in true perspective. My phone has been ringing off the hook and my email has been loaded with fingerprint examiners in panic over this ruling. My advice is to give the prosecutors a chance to appeal the ruling and see what happens before you start reading the classified ads for job listings in preparation for the collapse of our business. My advice is also this: You'd better know your science. The "good old days" of 25 or more years ago when you could simply testify that fingerprints are permanent and unique and that they can be identified are over. Defense attorneys would not question you on WHY and HOW. Today, you have to be a well-educated professional. You have to understand embryology and morphology of skin. You have to understand the scientific proc-

ess. And you have to be articulate. If you meet those requirements, you have nothing to fear in court. But even if you meet those requirements, you may still occasionally lose when you have to appear before that judge who, for 20 years, was an ACLU lawyer and who has carried his liberal attitudes to the bench. When you lose in his court, lick your wounds and get ready for the next trial in the next court, because that single defeat doesn't mean your death. It simply means, "You can't win them all."

(This article was written on January 11, 2002 at www.CLPEX.com. The author currently works at Arizona DPS Crime Lab. For information regarding Judge Pollak's reversal, see page 23.)

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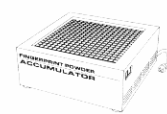
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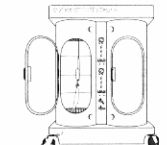
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