

Products Liability Series: Can an Expert Witness Merely Reiterate Others' Opinions?



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No. An expert cannot merely reiterate, vouch for, or bolster the opinions of someone else, as this is improper and inadmissible. Ark. R. Evid. 702; *Food, Inc. v. Indus. Risk Insurers*, No. 5:13-CV-05204, 2015 WL 12914256, at *2 (W.D. Ark. Oct. 6, 2015) (holding that expert could not offer opinions “which serve no purpose other than to ‘bolster’ [another expert]’s opinions”).

Where an expert attempts to do this, her opinions are inadmissible. See *Westcott v. Crinklaw*, 68 F.3d 1073, 1076 (8th Cir. 1995) (excluding expert testimony because it impermissibly bolstered the credibility of a witness, which resulted in the jury essentially surrendering “their own common sense in weighing testimony...”).

Where an expert witness has shown a pattern of crossing this line in depositions, defense counsel should consider filing a motion in limine to address the issue upfront. With or without that motion, defense counsel must still be quick on their feet for objections at trial, as such testimony can slip out of a trained expert’s mouth at any time. Where this damage has been done, counsel can seek to have the jury instructed to exclude such a point from their minds in reaching the decision.

This article is part of the Mitchell Williams Products Liability Series explaining the nuances of how Arkansas Products Liability law is interpreted and practiced.

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