

Appendix A: Cases in Which the SDOH are Relevant

The SDOH are relevant in a wide range of legal cases. This Appendix offers three further examples of legal issues in which an understanding of the SDOH may help judges to reach decisions more likely to account for all the relevant factors.

Causation

A familiarity with the SDOH helps judges rule on the admissibility of causation evidence by allowing them to more fully appreciate the full scope of events that could have produced the outcome at issue. Judges with an awareness of associations like those between health and socioeconomic status¹ are better positioned to decide whether evidence of causation is sufficiently grounded in science, or is inadmissible because it leaves out possible alternate explanations. In other words, the greater a judge’s understanding of the SDOH that could have influenced the health of the individual, the easier it will be for that judge to recognize how and where those social factors played a role and whether the causation evidence properly accounted for it. This is especially critical for determining the admissibility of expert evidence. Given their “gatekeeping role,” judges must decide whether there are any “confounding factors” or “additional explanations” for the results of the study on which the expert is relying.² As the SDOH can present this type of “confounding factor” or “additional explanation,” their impact must be considered when reviewing a study’s reliability.

For example, see:

- *Shkreli v. Initial Contract Services*, 55 A.D.3d 1067 (N.Y. App. Div. 2008): Court has to decide whether psychiatrist’s opinion about plaintiff’s depression being rooted in social factors has a rational basis.
- *In re National Prescription Opioid Litigation*, No. 1:17-md-2804, 2019 WL 4054998 (N.D. Ohio 2019): Court deciding about whether to certify expert whose expertise involves findings about the role of social factors in opioid epidemic.
- *Willis v. Abbott Laboratories*, No. 1:15-cv-00057-JHM, 2017 WL 5988215 (W.D. Ky. Dec. 1, 2017): Admissibility of two experts’ opinions differed depending on whether they sufficiently considered possible alternative causes, like parent’s education.

- *Seaman v. Seacor Marine LLC*, 564 F.Supp.2d 598 (E.D. La. 2008): Court has to decide whether expert’s opinion that plaintiff’s cancer was caused by environmental exposure to chemicals and exhaust has sufficient support.

Review of Administrative Actions

An understanding of the SDOH is useful to judges asked to decide disputes about whether or not an agency has acted within the scope of its authority. Since the parameters of the agency’s authority are typically laid out by statute or regulation, such cases often require judges to interpret statutes or regulations containing the potentially ambiguous term “public health,” as well as decide what types of evidence the agency must consider in carrying out its statutory duties (or promulgating regulations) that relate to public health. Doing so requires an understanding of the SDOH, as properly determining whether an action is aimed at or advances the public health requires an agency to consider how social factors interact to impact the public’s health.

See example cases:

- *Whitman v. American Trucking Associations*, 531 U.S. 457 (2001): “Public health” provides an intelligible principle for guiding agency actions and can be interpreted by the courts.
- *Leppink v. Water Gremlin Co.*, 944 N.W.2d 493 (Minn. Ct. App. 2020): “Public health” not defined in statute, so court looked to dictionary definition, and had to decide if company policy about lead contamination could adversely affect public health.
- *Rose Hill Center v. Holly Township*, 568 N.W.2d 332 (Mich. Ct. App. 1997): “Public health” again not defined in statute, causing court to look at dictionary definition and decide if treatment center for mentally ill patients has the effect of protecting or improving community health.
- *Crown Motors v. City of Redding*, 283 Cal. Rptr. 356 (Cal. Ct. App. 1991): Court has to decide if electronic billboards have enough of an effect on mental and physical health to qualify as detriments to the public health.

Public Nuisance

In public nuisance cases, an understanding of the SDOH can help judges to determine whether the conduct or conditions in question rise to the level of a public nuisance. In these cases, one of

the factors that courts consider is whether the conditions represent a significant interference with the public health.³ Judges will thus often need to consider SDOH to recognize whether or how the putative nuisance affects the public's health. Further, in recent years, there has been a push in public nuisance litigation to "reach beyond the immediate causes of modern social problems to address their underlying roots."⁴ In assessing these claims, courts must understand how upstream social factors can harm the public's health.

See example cases:

- *State v. Lead Indus. Ass'n, Inc.*, 951 A.2d 428 (R.I. 2008): Court deciding whether lead paint infringes on anything that could be considered a public right, decides that it does not.
- *People v. ConAgra Grocery Products, Co.*, 227 Cal. Rptr.3d 499 (Cal. Ct. App. 2017): Court decides that lead paint does have enough of an effect on the community and their health to infringe on a public right.
- *Town of Delafield v. Sharpley*, 586 N.W. 779 (Wis. Ct. App. 1997): Court says that one of the things that can render premises a public nuisance is if they are detrimental to the health of the community.
- *New York v. New St. Mark's Baths*, 497 N.Y.S.2d 979 (N.Y. Spec. Term 1986): In deciding whether a bathhouse was a public nuisance due to being a public health risk during the HIV/AIDS epidemic, the court has to consider how social norms and environments contributed to the spread of the disease.

¹ Bruce Link & Jo Phelan, *Social Conditions as Fundamental Causes of Disease*, 35 J. HEALTH & SOC. BEHAVIOR (EXTRA ISSUE) 80, 81-82 (1995).

² Daniel J. Brown, *Clear as Mud—The Role of Epidemiological Data in Assessing Admissibility under Delaware Rule of Evidence 702*, 13 DEL. L. REV. 71, 89-92 (2012).

³ RESTATEMENT (SECOND) OF TORTS § 821B (AM. LAW INST. 1979).

⁴ Lindsey Wiley, *Rethinking the New Public Health*, 69 WASH. & LEE L. REV. 207, 251 (2012).