

# “PEER DISAGREEMENT” AND EVIDENCE OF EVIDENCE

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ABSTRACT: What the rational thing to do in the face of disagreement by an epistemic peer is has been much discussed recently. Those who think that a peer’s disagreement is itself evidence against one’s belief, as many do, are committed to a special form of epistemic dependence. If such disagreement is really evidence, it seems reasonable to take it into account and to adjust one’s belief accordingly. But then it seems that the belief one ends up with depends, in part, on what someone else believes, even if one does not know why that someone believes what he does. While the practical impossibility of finding actual cases of peer disagreement has been often noted, its conceptual possibility has gone unquestioned. Here we challenge this consensus and argue, first, that, strictly speaking, peer disagreement is impossible and, second, that cases of – all-too-common – near-peer disagreement present no special puzzle and require nothing more than adhering to standard principles of sensible epistemic conduct. In particular, we argue that in such cases there is no good reason to adopt the widely accepted principle that evidence of evidence is evidence. If so, even if one takes a near-peer’s disagreement as a reason for re-examining one’s belief, one is not epistemically dependent in the sense one would be if that disagreement were evidence concerning the matter in question.

Keywords: disagreement; evidence; epistemic peers; justification; rationality.

Introduction

What the rational thing to do in the face of disagreement by an epistemic peer is has been much discussed recently. Those who think that a peer's disagreement is itself evidence against one's belief, as many do, are committed to a special form of epistemic dependence. If such disagreement is really evidence, it seems reasonable to take it into account and to adjust one's belief accordingly. But then it seems that the belief one ends up with depends, in part, on what someone else believes, even if one does not now why that someone believes what he does. While the practical impossibility of finding actual cases of peer disagreement has been often noted, its conceptual possibility has gone unquestioned. Here we challenge this consensus and argue, first, that, strictly speaking, peer disagreement is impossible and, second, that cases of – all-too-common – near-peer disagreement present no special puzzle and require nothing more than adhering to standard principles of sensible epistemic conduct. In particular, we argue that in such cases there is no good reason to adopt the widely accepted principle that evidence of evidence is evidence. If so, even if one takes a near-peer's disagreement as a reason for re-examining one's belief, one is not epistemically dependent in the sense one would be if that disagreement were evidence concerning the matter in question.

Disagreement is often taken to be puzzling if it involves these elements: two parties with equal intellectual virtues and abilities, the same evidence regarding some proposition  $p$ , full disclosure of the evidence between the parties, yet disagreement over the truth-value of  $p$ . Here are some well-known examples:

*Feldman's Quad*: Two people are standing by the window looking out on the quad. They seem to be equal in intellectual virtue and cognitive ability. One claims to be seeing the Dean standing in the middle of the quad, the other disagrees. They are both confident in their beliefs, taking themselves to be correct.<sup>1</sup>

*Christensen's Restaurant*: Two philosophers go out to dinner. Again, they fulfill the conditions for intellectual parity. When the check comes, one calculates each share as \$43,

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<sup>1</sup> Richard Feldman, "Reasonable Religious Disagreements," in *Philosophers Without Gods: Meditations on Atheism and the Secular*, ed. Louise Anthony (Oxford: Oxford University Press, 2007), 194-214.

whereas the other gets to a different result, say, \$45. They are both confident that they have got it right.<sup>2</sup>

*Kelly's Courtroom:* You and I are members of a jury determining whether the accused is guilty. After both the prosecution and the defense rest, we have to come to a decision. We have equally good judgment and the same evidence. My verdict is guilty, yours, innocent. We are equally confident in our rightness.<sup>3</sup>

Intuitions about what one should do in cases like these vary. Some have defended the view that in such cases one should lower one's confidence in one's belief. Thus David Christensen says that in the restaurant case I should give equal credence to my belief that my share of the bill is \$43 and to my colleague's belief that it is \$45. But why should we think that? The answer, according to Christensen, is that since my peer and I are in a symmetrical position from an epistemic point of view, there is no reason for me to believe that my peer is wrong in this case apart from the disagreement itself, but our disagreement gives me no reason to demote my colleague from being my peer. For insofar as I can use our disagreement as evidence that my peer is wrong, thereby holding fast to my previous belief that my share is \$43, my peer could easily do the same. I could reasonably demote my colleague from being a peer only if I have reasons that are *independent* of my own reasoning in support of my original belief. If such reasons are lacking, there is no reason to believe that either of us has the epistemic upper hand. Rather, we should take peer disagreement as an opportunity to revise our beliefs – an opportunity, as Christensen says, *for epistemic improvement*.<sup>4</sup> Conciliation is called for.<sup>5</sup>

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<sup>2</sup> David Christensen, "Disagreement, Question-Begging, and Epistemic Self-Criticism," *Philosophers' Imprint* 11, 6 (2011): 1-22.

<sup>3</sup> Thomas Kelly, "Disagreement and the Burdens of Judgment," in *The Epistemology of Disagreement: New Essays*, eds. David Christensen and Jennifer Lackey (Oxford: Oxford University Press, 2013), 31-53.

<sup>4</sup> David Christensen, "Epistemology of Disagreement: The Good News," *Philosophical Review* 116, 2 (2007): 187-217.

<sup>5</sup> See also David Christensen, "Disagreement as Evidence: The Epistemology of Controversy," *Philosophy Compass* 4, 5 (2009): 756-767.

A similar, but in some sense stronger position, was at one time defended by Richard Feldman. Take any of the three scenarios above and let the parties come to full disclosure of the evidence, that is, let both know that they have the same evidence. There are three doxastic options available to them: belief, disbelief, and suspension of belief. Let a *reasonable disagreement* be such that both parties to it are justified in the beliefs they hold. Feldman argues that a single body of evidence cannot justify more than one attitude towards a proposition, and since the parties have the same evidence after full disclosure, they cannot be justified in either believing or disbelieving the relevant proposition.<sup>6</sup> If after full disclosure of the evidence they find themselves in disagreement, they should suspend judgment regarding the question. Since there is no *reasonable disagreement* possible after full disclosure of the evidence, the parties cannot justifiably draw different conclusions from the same evidence. Suspension of belief is the only reasonable option in cases of such disagreement.<sup>7</sup>

More recently, Feldman has come to defend a weaker position: what has been called the *Total Evidence View*, which is also championed by Thomas Kelly.<sup>8</sup> According to this, one's response to a peer's disagreeing should be governed by one's total evidence, which consists of one's *first-order* evidence, i.e., the original evidence on which one formed one's belief, and the *higher-order* evidence consisting of the fact that one's peer disagrees. The impact and the complexity of the total evidence varies in each case, but first-order evidence still counts after full disclosure of the evidence. Thus even though there may be cases where suspension of judgment is called for, there may also be cases in which one should hold fast to one's belief.<sup>9</sup> As a matter of fact, Kelly says that "there is certainly no guarantee that the uniquely reasonable response on your part is to retreat to a state of agnosticism between your original opinion and my original

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<sup>6</sup> "...a body of evidence justifies at most one proposition out of a competing set of propositions..." Feldman, "Reasonable Religious Disagreements," 205, and "...it cannot be that epistemic peers who have shared their evidence can reasonably come to different conclusions." Feldman, "Reasonable Religious Disagreements," 213.

<sup>7</sup> Note that Feldman does not question the possibility of peer disagreement, only its reasonableness. We will argue that if two people are really epistemic peers, there cannot be unreasonable disagreement between them, either.

<sup>8</sup> See Feldman, "Evidentialism, Higher-Order Evidence, and Disagreement," *Episteme* 6, 3 (2009): 294-312, and Kelly, "Disagreement and the Burdens of Judgment."

<sup>9</sup> Cf. Feldman, "Evidentialism, Higher-Order Evidence, and Disagreement," 311.

opinion,”<sup>10</sup> as suggested, for instance, by Christensen’s conciliationism. The reasonable response to disagreement depends on the combination of first-order evidence and the higher-order evidence “afforded by the fact that one’s peers believe as they do.”<sup>11</sup> What to do when a peer disagrees with you should be dictated by your judgment about your epistemic situation, and not by a general epistemic norm requiring agnosticism.

Differing as they do in their answer to how to respond to disagreement by a peer, all these writers take such disagreement to have evidential import. More than that, in the case where you believe that *p*, they take the fact that your peer disagrees with you as evidence against *p*. Thus, as mentioned above, Kelly takes the fact that one’s peer disagrees with one as higher-order evidence that should be added to one’s “stock of evidence”<sup>12</sup>; Christensen says that “the peer’s disagreement gives one evidence that one has made a mistake in interpreting the original evidence, and that such evidence should diminish one’s confidence in *P*”<sup>13</sup>; and Feldman says that “the proposition that *S*’s peer - whose evidence concerning *p* is the same as *S*’s - disbelieves *p* is evidence against *p*.”<sup>14</sup> Therefore, in each of the aforementioned cases where one believes that *p*, peer disagreement is taken as evidence that *p* is false: one should consider whether one’s belief that *p* is still supported by the total evidence, which now includes the evidence that one’s peer disagrees with one, and withhold belief or at least believe that *p* less confidently than before. And, of course, they all take it for granted that there *can* be such a thing as disagreement between epistemic peers. In section I we distinguish between strict peers and near-peers and argue that, on the account of peer-hood accepted by these and most other writers on the subject, there can be no such thing as peer disagreement. In section II we argue that in cases of disagreement between near-peers, which is, indeed, common, the near-peer’s disagreement is not evidence against the

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<sup>10</sup> Kelly, “Disagreement and the Burdens of Judgment,” 35.

<sup>11</sup> Thomas Kelly, “Peer Disagreement and Higher-Order Evidence,” in *Disagreement*, eds. Richard Feldman and Ted Warfield (Oxford: Oxford University Press, 2010), 142.

<sup>12</sup> Kelly, “Disagreement and the Burdens of Judgment,” 45.

<sup>13</sup> Christensen, “Disagreement as Evidence: The Epistemology of Controversy,” 757.

<sup>14</sup> Feldman, “Evidentialism, Higher-Order Evidence, and Disagreement,” 298.

proposition one believes. It may be a reason for re-examining one's evidence and one's assessment of it, but that should not be taken to be the same thing as having evidence against what one believes.

## I. Is peer disagreement possible?

There are several slightly different characterizations of peer-hood in the recent literature. Generally, peers are characterized as having the same, or, at least, approximately the same, evidence, intellectual virtues and abilities. Thus, Feldman defines epistemic peers as being “roughly equal with respect to intelligence, reasoning powers, background information, and so on.”<sup>15</sup> Christensen claims they are approximately equals “in terms of exposure to the evidence, intelligence, freedom from bias, etc.”<sup>16</sup> Stewart Cohen says with respect to peers that “there is enough shared evidence that there is no reason to suppose that either party (...) is in an evidentially superior position.”<sup>17</sup> Moreover, peers must be “in general equal in their reasoning abilities, or at least, close enough so there is no basis for supposing either party is in general the superior reasoner.”<sup>18</sup> This does not guarantee, however, that they will *employ* their equal competence in examining the evidence equally well. That is why Christensen says that they should also “react to that evidence in the right way,”<sup>19</sup> and Ernest Sosa emphasizes that peer-hood also depends on “how likely you are to *employ* [your general competences].”<sup>20</sup> Gary Gutting describes peers as being equals in “intelligence, perspicacity, honesty, thoroughness, and other relevant epistemic virtues.”<sup>21</sup> Kelly char-

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<sup>15</sup> Feldman, “Reasonable Religious Disagreements,” 201.

<sup>16</sup> Christensen, “Disagreement as Evidence: The Epistemology of Controversy,” 756.

<sup>17</sup> Stewart Cohen, “A Defense of the (Almost) Equal Rights View,” in Christensen and Lackey, *The Epistemology of Disagreement: New Essays*, 98-99.

<sup>18</sup> Cohen, “A Defense of the (Almost) Equal Rights View,” 99.

<sup>19</sup> Christensen, “Epistemology of Disagreement: The Good News,” 188.

<sup>20</sup> Ernest Sosa, “The Epistemology of Disagreement,” in *Social Epistemology*, eds. Adrian Haddock, Alan Millar, and Duncan Pritchard (Oxford: Oxford University Press, 2010), 283.

<sup>21</sup> Gary Gutting, *Religious Belief and Religious Skepticism*, Notre Dame: University of Notre Dame Press, 83.

acterizes peers concerning a particular question as “equals with respect to their familiarity with the evidence and arguments which bear on that question,”<sup>22</sup> and also says that “they are equals with respect to general epistemic virtues such as intelligence, thoughtfulness, and freedom from bias.”<sup>23</sup> It is sometimes stressed that peers should be equals in general epistemic competence, sometimes that they must be equals with respect to the particular question they disagree about. Hence, there is a distinction between being a peer in general and being a peer concerning some proposition *p*.<sup>24</sup>

However, sometimes it is stipulated that two peers must have literally the same evidence regarding *p*. According to Feldman and Warfield, we have “...peers literally share all evidence and are equal with respect to their abilities and disposition relevant to interpreting that evidence.”<sup>25</sup> As will become clear, we think that the difference between the two characterizations – ‘roughly equal’ v. ‘literally equal’ – makes all the difference, and even though it is sometimes observed in the literature, it is usually not carefully observed. It is important to notice that both Gutting’s and Kelly’s characterizations of peers mention that they must be ‘equals,’ and not just *approximately* equals. Sometimes, this distinction is not even observed by the same author, for if we continue the passage we cited from Cohen, for instance, we have the following: “When parties to a disagreement have the same evidence and are equal in their reasoning abilities, they are epistemic peers.”<sup>26</sup>

Of course, this may just be a loose way of putting things, but we will argue that the difference is by no means insignificant. We think we should draw a distinction between epistemic peers in the strict sense (EP) and epistemic near-peers (ENP):

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<sup>22</sup> Thomas Kelly, “The Epistemic Significance of Disagreement,” in *Oxford Studies in Epistemology, Vol 1*, eds. Tamar Szabo Gendler and John Hawthorne (Oxford: Oxford University Press, 2005), 175.

<sup>23</sup> Kelly, “The Epistemic Significance of Disagreement,” 175.

<sup>24</sup> Nathan King, “Disagreement: What’s the Problem? or A Good Peer is Hard to Find,” *Philosophy and Phenomenological Research* 85, 2 (2012): 249-72, is a good source for the conditions for peer-hood assumed in the recent literature.

<sup>25</sup> Richard Feldman and Ted Warfield, “Introduction,” in Feldman and Warfield, *Disagreement*, 2.

<sup>26</sup> Cohen, “A Defense of the (Almost) Equal Rights View,” 99.

(EP) *A* and *B* are epistemic peers with respect to *p* iff they have identical evidence concerning *p*, equal cognitive abilities in general, and are equal in their employment of those cognitive abilities with respect to *p* and evidence they have.

(ENP) *A* and *B* are epistemic near-peers with respect to *p* iff they have approximately the same evidence concerning *p*, approximately the same cognitive abilities in general, and are approximately equal in their employment of those cognitive abilities with respect to *p* and the evidence they have.

According to (EP), epistemic peers are epistemically identical with respect to *p*. Let *A* and *B* be peers, i.e., let them satisfy (EP) for some proposition *p*, and let  $E_A$  be *A*'s body of evidence and  $E_B$  *B*'s. It follows from (EP) that  $E_A = E_B$ . Now, suppose that *A* believes that *p* based on  $E_A$ , but *B* demurs. Then either *B* does not accept  $E_A$  or she does but does not believe that if  $E_A$ , then *p*. If the former,  $E_A \neq E_B$ , contrary to the assumption. If the latter, either *A* and *B* do not have the same cognitive abilities or they are not employing those abilities in the same way. One way or the other, the mere fact that *A* and *B* disagree shows that they are not epistemic peers as defined in (EP).

Broadly speaking, there are two general conceptions of evidence. Either evidence is exhausted by one's mental states – the *internal* conception of evidence – or it includes facts about the world – the *external* conception.<sup>27</sup> We take for granted that most writers assume an internalist position, but all the above holds on either conception. Whether  $E_A$  and  $E_B$  are thought of as consisting exclusively of internal states of *A* and *B* or not, what matters for present purposes is that they be thought of as identical.

It may be objected, however, that this is too strong. Even if we ignore all the many non-epistemic differences between *A* and *B* – as we may be entitled to do here – one crucial epistemic difference may remain. Suppose *A* is a brain in a vat and *B* is not. Then, even if (EP) is satisfied, *A* and *B* will differ in that *A*'s beliefs will be false and *B*'s true. But this objection has no teeth in

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<sup>27</sup> Conee and Feldman's account of evidence as occurrent thoughts is an instance of the former. See Earl Conee and Richard Feldman, *Evidentialism: Essays in Epistemology*, Oxford: Oxford University Press, 2004. The account in Timothy Williamson, *Knowledge and its Limits*, Oxford: Oxford University Press, 2000, 184-208, is one of the latter.



the present context. Saying that *A* and *B* are epistemic twins (as we will, in what follows), rather than epistemically identical makes no difference with respect to the present point. As long as the *only* epistemic difference between *A* and *B* is that their beliefs differ in truth value, disagreement between them is ruled out by (EP).<sup>28</sup>

Another objection may be that non-epistemic differences cannot be ignored, since they may lead two people to evaluate *p* differently, even if they satisfy (EP). They may disagree for practical or psychological reasons. But if they disagree for non-epistemic reasons, we obviously do not have a case of *epistemic* disagreement. I may have good reasons to disagree with you about *p* when *p* is a live, forced, or momentous question for me but not for you: you are willing to accept *p* given *E*, whereas I, having more at stake, require more.<sup>29</sup> But then, again, you and I are not employing our cognitive capacities in the same way.<sup>30</sup> Such disagreements do not pose a question for the epistemology of disagreement.<sup>31</sup>

An arguably more epistemically relevant case is one in which the parties have different insights:

Each may have his or her own special insight or sense of obviousness. But each knows about the other's insight. Each knows that this insight has evidential force. And now I see

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<sup>28</sup> Sosa discusses cases where disagreement is sufficient to demote the other party from being a peer. Take, for instance, a disagreement about whether you are in a certain mental state. (Sosa uses a headache as example). In this case, the only evidence I have is that you say you are. If I disagree "you would be reasonable to downgrade your opponent based essentially on your disagreement, even with no independent reason for doing so." Sosa, "The Epistemology of Disagreement," 287. Nevertheless, Sosa points out that it is not easy to demote somebody from being a peer in "issues subject to troubling, persistent disagreement are not properly decidable in the absence of ulterior reasons." Sosa, "The Epistemology of Disagreement," 287.

<sup>29</sup> We borrow here from William James, *The Will to Believe and Other Essays*, New York: Longmans, Green, and Co., 1897, 2-3.

<sup>30</sup> So-called attributor contextualism makes much of the difference between 'high-stakes' and 'low-stakes' situations with respect to knowledge attributions. Without endorsing that – we think, dubious – doctrine, we are deploying a similar distinction with respect to belief. (See, for example, Stewart Cohen, "Knowledge and Context," *The Journal of Philosophy* 83, 10 (1986): 574-583, and Keith DeRose, "Contextualism and Knowledge Attributions," *Philosophy and Phenomenological Research* 52, 4 (1992): 913-929.) (More on the distinction between having evidence and having good reasons in section II.)

<sup>31</sup> Feldman, "Reasonable Religious Disagreements," 205-6, discusses a similar case regarding disagreement resulting from opposing worldviews or starting points (see also Harvey Siegel, "Argumentation and the Epistemology of Disagreement," *Cogency* 5, 1 (2013): 135-170, for a discussion of "deep" disagreement). For a much earlier discussion on this, see Robert Fogelin, "The Logic of Deep Disagreements," *Informal Logic* 7, 1 (1985): 3-11.

no basis for either of them justifying his own belief simply because the one insight happens to occur inside of him. A point about evidence that plays a role here is this: evidence of evidence is evidence. More carefully, evidence that there is evidence for P is evidence for P. Knowing that the other has an insight provides each of them with evidence.<sup>32</sup>

But here, again, if *A* and *B* have different insights with different evidential force, they do not satisfy (EP). If you have a revelation or vision that I do not have, we have different evidence and are thus not peers. If you are convinced by the argument from design and I am not, we differ in how we assess the evidence we both have and are thus not peers.<sup>33</sup>

Catherine Elgin has argued that a definition of peer-hood such as (EP) is too narrow and that for that reason it is not helpful in understanding *real-world* disagreement. She says that

in the recent debates about disagreement ‘epistemic peer’ is defined quite narrowly. It requires having *the same* evidence, and reasoning abilities. So it is not surprising if an ordinary person lacks epistemic peers with respect to a particular, mundane issue. If Jen and Jon have even slightly different relevant reasoning abilities or evidence pertaining to the causes of the Civil War, they are not epistemic peers with respect to the subject. Given the vicissitudes of education and abilities, and the idiosyncrasies of evidence gathering, ordinary epistemic agents are apt to have few epistemic peers.<sup>34 35</sup>

Elgin is correct in observing that peer-hood as defined in (EP) is an idealization, and that we need a more generous account of it to deal with real-world cases of disagreement, one on which two disagreeing parties have only “pretty much the same evidence, reasoning powers,

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<sup>32</sup> Feldman, “Reasonable Religious Disagreements,” 208.

<sup>33</sup> The same goes for Conee’s suggestion about different intuitions. See Earl Conee, “Rational Disagreement Defended,” in Feldman and Warfield, *Disagreement*, 69-90.

<sup>34</sup> Catherine Elgin, “Persistent Disagreement,” in Feldman and Warfield, *Disagreement*, 56-57.

<sup>35</sup> Similar doubts about the possibility of strict peer-hood are voiced by Jonathan Matheson, “Disagreement: Idealized and Everyday,” in *The Ethics of Belief: Individual and Social*, eds. Jonathan Matheson and Rico Vitz (New York: Oxford University Press, 2014), 315-330, King, “Disagreement: What’s the Problem? or A Good Peer is Hard to Find,” and Siegel, “Argumentation and the Epistemology of Disagreement.”

training, and background information.”<sup>36</sup> (57) This echoes Feldman’s requirement that they be “roughly equal,” which we believe is captured by (ENP). In section II we will discuss cases involving epistemic near-peers, which may capture the more ‘generous account’ that Elgin has in mind. However, Elgin’s criticism of the stricter notion of peer-hood is very different from ours. We do not say that (EP) should be abandoned in favour of a more generous account, given its inapplicability in the real world. Our claim is, rather, that peer disagreement in the *ideal case* is impossible. Elgin does not seem to realize this, for she goes on to say that her solution to cases of near-peer disagreement also works if the “standard conception of an epistemic peer is used.”<sup>37</sup> And, by “standard” here she means (EP).<sup>38</sup>

Thus we agree that genuine peer disagreement in the strict sense of peer-hood is problematic, but not because it is rare or hard to come by. We maintain that if peer disagreement is understood as in (EP), there *could not be* such a thing. There can, of course, be disagreement between *apparent* epistemic peers, who appear to be such because they satisfy (EPN) and are, in Feldman’s words, *roughly* equal. This is also what Elgin’s “generous” characterization of peers comes to. Whatever one calls it, it amounts to a more permissive definition of peer-hood, taking into account at least some differences in the evidence or the intellectual capacities (or both) of the disagreeing parties. Thus, you may *appear* to be my peer as defined in (EP) and yet disagree with me. Indeed, such cases are common. To appear to be my peer, you must be my near-peer; if you were not, it would very likely be obvious that you are not. In such a case, if I understand peer-hood *a la* (EP), I know that you cannot be my peer. What I do not know is whether you are my epistemic superior or my epistemic inferior, that is to say, whether you are more or less competent or have stronger or weaker evidence or both.<sup>39</sup> If I believed you to be my superior, I would

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<sup>36</sup> Elgin, “Persistent Disagreement,” 57.

<sup>37</sup> Elgin, “Persistent Disagreement,” 57.

<sup>38</sup> It is not clear whether one should regard (EP) or (ENP) the “standard” conception of peer-hood – if, indeed, there is one at all. We take this to be at least partly due to the back and forth between ‘equal’ and ‘approximately equal’ in the definitions of peer-hood, and also to a certain looseness or lack of precision in many definitions, as illustrated above. In any case, we use ‘peer’ for the strict case, (EP), and ‘near-peer’ for the notion defined in (ENP).

<sup>39</sup> This is a broad definition of epistemic superiority. Some may prefer a narrower one, focusing only on better or superior cognitive ability. This makes no difference to the present argument.

have reason to defer, if to be my inferior, to stand firm. So far I have no reason for doing either; thus Feldman is right that suspension of judgment is called for. However, to agree that suspension of judgment is called for *pro tem* is not to agree that that is all that is called for. Other, obvious, things to do are to re-examine both bodies of evidence and to look for additional evidence. We know that we cannot both be right (though we could both be wrong). We therefore know that one of three things must be true. One of us may be misjudging the evidence he has, the evidence one of us has may be misleading, or there is other evidence to be found that would tip the scales one way or the other.

I may not know which of us is epistemically superior, but your disagreeing gives me reason to try to find out, and what better way than to ask you. Suppose you claim to have evidence I do not have. If I believe you and think you my epistemic equal in other respects, I should defer, if I do not believe you or think you epistemically inferior, I should not. Whichever the case, I do not take myself to be deferring to, or refusing to defer to, an epistemic peer. Suppose you claim that the evidence we both have shows something different than what I think it does. I ask you to explain and either accept your explanation or do not. Doing the first is tantamount to deeming you my epistemic superior, doing the second, my inferior. Again, I do not take myself to be deferring to, or refusing to defer to, an epistemic peer. Whatever I do, I do precisely because I do not take us to be the epistemic peers we may have appeared to be – the mere fact that we disagree is proof that I am right in this.

Thus in Christensen's example, we both know that (at least) one of us is mistaken. Given that our evidence is obviously the same, it follows that we are not equal in our cognitive abilities – or, at least, in our employment of them with respect to the matter in question – and that we both know this. If each one of us is confident that he is right, as Christensen says, that is tantamount to his thinking that the other is his epistemic inferior. However, such confidence is compatible with thinking that it may, after all, turn out to be the other way around. Hence the only sensible thing to do is to set about finding out which of us is mistaken. This is, obviously, what two rational people finding themselves in such a situation would do: they would go over the bill together. Similar remarks may be made about Feldman's case ("Fetch the binoculars!"). Dis-

agreement of this sort is, indeed, occasion for epistemic improvement. But that is not the same thing as “giving equal credence” to a proposition one does not believe and for which one’s only evidence is that someone who may or may not be one’s epistemic superior believes it.

Distinguishing between higher-order evidence, as do Kelly and (now) Feldman, makes no difference to any of this. If my total evidence includes evidence that you have come to a different belief on the basis of first-order evidence we both have, we do not satisfy (EP) with respect to parity of cognitive ability. Furthermore, (EP) cannot be satisfied with respect to total evidence so understood. You and I cannot have the same total evidence, as mine will include evidence of your disagreeing with me and yours will include evidence of my disagreeing with you.<sup>40</sup>

## II. Near-peer disagreement and evidence of evidence

### *a) Evidence of what?*

While there can be no such thing as peer disagreement strictly speaking, cases of near-peer disagreement are not uncommon. We have suggested that in such cases there is no need to look for any special principle telling the near-peers how they should react to their disagreement: general principles of sensible epistemic conduct are all they need to employ. Some, however, take the fact that a near-peer disagrees with one as itself evidence against one’s position and argue that it is sufficient for giving up one’s position, either suspending belief (Feldman) or going as far as deferring to one’s disputant (Christensen).

Feldman takes the following principle to be the “key evidential fact about disagreements”:

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<sup>40</sup> Our total evidence can be the same if we ignore the indexical aspect and focus on the character of the sentence describing the higher-order evidence, rather than on its content. If the evidence is described only as one’s peer’s disagreeing, we may both be said to have it. But then if we have the same total evidence and still disagree, that must be because we are not equals in cognitive ability.

(KEF) The proposition that *S*'s peer - whose evidence concerning *p* is the same as *S*'s - disbelieves *p* is evidence against *p*.<sup>41 42</sup>

The first problem with (KEF) is that it does not capture the idea behind the slogan 'evidence of evidence is evidence', as it is presumably intended to do.<sup>43</sup> If my peer's evidence is really the same as mine, our disagreement can be put down only to superior cognitive ability on the part of one or other of us. Rational disagreement can be explained only by one party's having either more evidence or better judgment. (KEF) explicitly rules out the former, so only the latter can be in play. Then the only thing of which my peer's disagreeing with me can be evidence of is that one of us has better judgment than the other. But that is not evidence that *his* judgment is better than mine.

In any case, what is presumably intended is that in having evidence that you do not believe what I believe I have evidence that you have evidence against what I believe – rather than that your judgment is better than mine – and *that* gives me evidence that what I believe is false. As already noted, as long as we differ in either our evidence or in our cognitive ability, we cannot be peers strictly speaking. Since disagreement between peers is impossible, our disagreement shows that we are not. (KEF), if taken to be about strict peers, is incoherent, requiring as it does thinking of the parties as both peers and not peers.

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<sup>41</sup> Feldman, "Evidentialism, Higher-Order Evidence, and Disagreement," 298.

<sup>42</sup> Disbelieving a proposition may be taken to mean not believing it or believing its negation. Thus one's peer may disagree with one either by denying what one believes or by merely refusing to affirm it. Feldman's 'evidence against *p*' suggests that he has the former in mind. It is not clear whether he intends the principle to apply in the latter case. (In what follows we will mean by 'peer' 'near-peer' as defined in (ENP).

<sup>43</sup> Feldman has different formulations of the principle 'evidence of evidence is evidence' in "Reasonable Religious Disagreements," 208, "Evidentialism, Higher-Order Evidence, and Disagreement," 308, and in Richard Feldman, "Evidence of Evidence is Evidence," in Matheson and Vitz, *The Ethics of Belief*, 292. (KEF) is supposed to be a principle about epistemic support (cf. Feldman, "Evidentialism, Higher-Order Evidence, and Disagreement," 298), specifically in cases of peer disagreement. We believe there is an ambiguity in Feldman's different formulations. While Branden Fitelson, "Evidence of Evidence is not (Necessarily) Evidence," *Analysis* 72, 1 (2012): 85-88, and Juan Comesaña and Eyal Tal, "Evidence of Evidence is Evidence (Trivially)," *Analysis* 75, 4 (2015): 557-559, discuss (EEE) assuming that the evidence one has is evidence of *what* the evidence the other has is (or is not, in Fitelson's case), we take it to mean only that it is evidence that the other has *some* (or something he takes to be – see below) evidence. For more on this, see Fabio Lampert and John Biro, "What is Evidence of Evidence Evidence of?" *Logos and Episteme* VIII, 2 (2017): 195-206.

A recognition of this may lie behind Feldman's characterization of epistemic peers as "roughly equal" in their evidence and cognitive abilities; in effect, as only near-peers.<sup>44</sup> However, insisting, as we have repeatedly, that any difference in what evidence two people possess or in their cognitive ability entails that they are not peers is no mere pedantry. We will argue that if one's disagreement is with someone who is only roughly one's peer, no special problem arises. More investigation, concerning the evidence the other has or his cognitive abilities (or both) is all that is required.

Feldman thinks otherwise. He thinks that in cases of what we are calling near-peer disagreement the following principle of evidence holds:

(EEE) Evidence that  $S$ 's near-peer disbelieves  $p$  is evidence against  $p$ .

Thus when one learns that one's near-peer does not believe what one does, one acquires evidence against what one believes.

One problem with this is that the evidence I have for the proposition that you do not believe that  $p$  is evidence only that you take yourself to have evidence that  $p$  is false.<sup>45</sup> Even supposing that my evidence that you do is good evidence that you do (which it may not be), the truth of *that* proposition is compatible not only with  $p$ 's being true but with my not having any evidence that  $p$  is false. Suppose I believe that the accused is innocent and you say that you believe him guilty. Assuming that you are sincere and you believe what you do because you take yourself to have evidence of his guilt, is the evidence I have – that you take yourself to have such evidence – evidence that the accused is guilty? Surely, only if I think that the evidence you take yourself to have is *good* evidence. If the evidence in question is misleading, your having it gives me no reason to believe what you do.

It is one thing to have evidence that  $p$  and another to have evidence that is good evidence that  $p$ . Since 'evidence that  $p$ ' may be taken to mean either, for all I know, what you have might

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<sup>44</sup> Feldman, "Reasonable Religious Disagreements," 201, our emphasis.

<sup>45</sup> Or that you see the evidence we both have as evidence for  $\neg p$ , rather than for  $p$ . For now, we ignore this possibility, though we will come back to it later. In any case, part of the assumption is that  $S$ 's near-peer disbelieves  $p$  because of what she deems to be evidence against it.

be misleading evidence. If that is the case, the fact that you disbelieve  $p$  does not speak against  $p$ . To decide whether it does so, I must find out what your evidence is and weigh it myself to the best of my ability. If I decide that your evidence is good evidence, that is tantamount to deciding that, in coming to believe what you did, you were my epistemic superior. Now that I have the evidence you have, we are again epistemic peers – but given that I think the evidence in question is good evidence, we no longer disagree.

We should thus distinguish between two senses of ‘evidence,’ the *neutral* sense and the *probative* sense, as we may dub them. Accordingly, ‘ $S$  has evidence that  $p$ ’ may mean one of two things. It may mean that  $E$  (where  $E$  is some proposition, state of affairs, fact – it does not matter which) is taken by  $S$  to speak in favour of  $p$ . In this sense, something is evidence if it is deemed to be so, and to say that  $S$  has evidence that  $p$  is not to say that what he has is evidence that supports  $p$ . In the latter, probative sense, to say that  $S$  has evidence that  $p$  is to say that  $S$  has evidence that *does* speak in favour of  $p$ .

In which of these two senses should we understand ‘evidence’ as it occurs in (EEE)? If in the first, the principle asserts merely that  $A$  has evidence (in one or the other sense) that  $B$  takes himself to have evidence that speaks in favour of  $p$ . But that should be of interest to  $A$  only if he has reason to believe that  $B$  is his epistemic superior.

Suppose that  $A$ ’s evidence is  $B$ ’s saying that he has evidence and  $A$  takes that as evidence that  $B$  has probative evidence that  $p$ . He would be mistaken if  $B$  were lying. Even if  $B$  is truthful, *he* may be mistaken: the evidence he takes to be probative may not be. In neither case does  $A$  have probative evidence that  $p$ . For (EEE) to have the bite it is thought to have, the second occurrence of ‘evidence’ must be understood in the probative sense. The trouble is that  $A$  (and we) have no grounds for thinking that the evidence  $B$  has is probative unless we know what that evidence is and judge it to be such. His disagreeing does not by itself constitute such grounds.



Let us label the two occurrences of ‘evidence’ in (EEE) as ‘evidence<sub>1</sub>’ and ‘evidence<sub>2</sub>’.<sup>46</sup> What we are interested in is whether someone asserting (EEE) is right in claiming, as its proponents appear to, that ‘evidence<sub>2</sub>’ is probative, that it speaks in favour of, or against, the proposition in dispute.

Imagine that we learn from a reliable source that a respected colleague has been claiming that LBJ was behind the assassination of JFK. We have evidence that he takes himself to have good evidence for the claim. Until we see what that evidence is, however, we have good reason to think him a whacko. Our evidence that he takes himself to have good evidence clearly does not mean that *we* have good evidence, not even that we have what we (perhaps mistakenly) take to be good evidence. Suppose that we learn *what* he takes to be evidence, and it *is* whacky; now we have good evidence that he *is* a whacko. Suppose, on the other hand, that we find the evidence he takes to be good evidence. Now we indeed have (what we take to be good) evidence ourselves. But this does not help (EEE). The evidence we now have that LBJ was involved is more than just that our colleague has what he takes to be good evidence, which is all we had before and which (EEE) says is sufficient for us to have evidence – indeed, good evidence – that LBJ was involved.<sup>47</sup> Thus it is a mistake to say that “... mere disagreement... is in general a perfectly legitimate piece of evidence ... and so often a good enough reason to demote [someone] from the status of a peer.”<sup>48</sup>

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<sup>46</sup> Following (loosely) Richard Feldman, “Evidence of Evidence is Evidence,” *Keynote lecture at Feldmania: A Conference in Honor of Richard Feldman*, UT San Antonio, 2011, and Fitelson, “Evidence of Evidence is not (Necessarily) Evidence.” As a slogan, (EEE) has three occurrences of ‘evidence’: evidence<sub>1</sub> of evidence<sub>2</sub> is evidence<sub>3</sub>. But only two appear in the principle as formulated above.

<sup>47</sup> This is why eyewitness testimony is admissible as evidence while hearsay is not. The difference between the two is not that the former is necessarily more reliable than the latter. We may trust the report of a usually reliable source more than we do the eyewitness testimony of one we suspect of inattention or perjury. But the eyewitness testimony is given under oath, whereas what the reliable source says is not (even if the report that he said it is). Thus, speaking *de jure*, the veracity of the former is guaranteed in a way that of the latter is not. Hence only the former is deemed probative evidence. (Of course, *de facto*, perjury is always possible. But that does not affect the point.)

<sup>48</sup> David Enoch, “Not Just a Truthometer: Taking Oneself Seriously (but not Too Seriously) in Cases of Peer Disagreement,” *Mind* 119, 476 (2010), 981. Enoch argues that there is no general recipe for how to respond to peer disagreement and that, partly for that reason, the notion is of less interest than is generally thought. While we have argued that, strictly speaking, there is no such thing as peer disagreement, we agree with both these points with respect to near-peer disagreement, even though our reasons are very different from his.

## b) Evidence and content

Certainly, your not believing that  $p$  gives me reason to re-examine the evidence on which I base my belief that  $p$  and my assessment of that evidence. And, if I have reason to think that you may be my epistemic superior, it may even give me reason to defer to you, pending – or lacking the opportunity for – such re-examination. Relying on experts is generally good policy and often unavoidable. But believing something on mere authority is not the same thing as believing something on the basis of evidence. For the latter, there must be what we may call a *content-connection* between one's evidence/ground and one's belief. Roughly, one must think that  $p$  is true *because* one thinks that what is adduced as evidence for it is true and is evidence that speaks in favour of  $p$ . That connection is missing when one bases a belief on mere authority, however reasonable and prudent doing so may be. If I think that  $p$  is true because I trust the expert who declares it to be so, I do not, Euthyphro-like, think that it is his so declaring it that makes it true. But that he so declares is all Feldman's slogan gives us, even when 'evidence<sub>2</sub>' is read as 'good evidence' (indeed, even if it is read factively, as entailing  $p$ ). Put simply, even if my believing that you have good evidence that  $p$  is false is enough to give me reason to believe that  $p$  is false, neither my so believing nor your actually having what I believe you to have is evidence for me that  $p$  is false. To have that, I have to know what your evidence is and see it as probative of  $p$ .<sup>49</sup> Unless I have done so, you are still the sole possessor of the evidence in question.

Considerations concerning explanatoriness may help here. If  $I$  have good evidence that  $p$ , the evidence I have is explained (albeit defeasibly) by  $p$ 's being true. My having it is not so ex-

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<sup>49</sup> Some may take this distinction to be between *direct* and *indirect* or *prima facie* evidence, rather than evidence and good reason. (See, for instance, Siegel, "Argumentation and the Epistemology of Disagreement," 144-145, fn. 1.) We believe that there is no such thing as indirect evidence. However, suppose there were. Our case against (EEE) would still hold. Suppose we modify (EEE) as

(EEE)\* Evidence that  $S$ 's near-peer disbelieves that  $p$  is *indirect* evidence against  $p$ .

The problem with (EEE)\* is that it is too weak. It does not matter whether you call it *indirect* or *prima facie* evidence, or even just (good) reason, as we did. If all that near-peer disagreement gives us is *indirect* evidence, then there is nothing substantive about (EEE)\*. As a matter of fact, (EEE)\* is a truism! Nobody has ever denied that a near-peer's disagreement gives one reason (or, *indirect* evidence) to pause and re-examine one's evidence. To deny that would be tantamount to endorsing a full-blooded dogmatism. If that is all the *Total Evidence View* has to say, we have no objection. But to defend the claim that we are no longer justified in our belief after our near-peer disagrees with us we need something much stronger, that is, we need evidence that, once added to our original body of evidence, makes it inconsistent. We need (EEE), rather than (EEE)\*.

plained.<sup>50</sup> My having evidence that you disbelieve  $p$  is not explained by  $p$ 's being false, even if you do have the evidence you claim to have and even if that evidence is good evidence that  $p$  is false. Even if you tell me what your evidence is, and even if that evidence is explained by  $p$ 's being false and I see that it is, the *explanans* of my having the evidence I have is your telling me that you do, not  $p$ 's being false. The only evidence (EEE) allows me is evidence of the fact of your disagreement. *That* is not explained by  $p$ 's being false, even if the evidence you have is. And I am in no position to know whether it is, just because you say that it is. I may or may not believe you. If I do, I may well defer to you, but that would be for the substantive reason that, thinking that you are my epistemic superior, I think your evidence likely to be good, not because the concept of evidence demands it. The lack of an explanatory connection is a reflection of a lack of what we have called a content-connection between the evidence I have about your attitude to  $p$  and  $p$ .<sup>51</sup>

Let us suppose that my evidence that you do not believe what I believe is that you tell me so. First, I have no way to tell whether you are telling the truth. More important, if you say that you do not believe as I do because you have evidence against what I believe, I have no way to tell whether the evidence you claim to have really *is* evidence against what I believe. If I found out what it was, I may not see it as evidence against what I believe. Of course, it is possible that you would be right and I wrong. But for the evidence that you have evidence against my belief to be something I see as evidence against my belief (and thus as relevant to my epistemic conduct, as (EEE) is supposed to be) you must really have evidence that *I* see as evidence against it. Your saying that you do is not by itself evidence that you do; hence I do not *thereby* have evidence against my belief. This is so even if it is probable that you are right and even if I think that you

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<sup>50</sup> The pavement's being wet is explained by its having rained; my seeing that the pavement is wet is explained not by that but by my looking at it, etc. It is not that its having rained may not be part of the total explanation, as may the work of the night street-cleaning crew. But whichever explains the pavement's being wet, it is not what explains my seeing that it is.

<sup>51</sup> Take the congressman investigated for influence-peddling. He is asked whether he was ever at the hotel where he is alleged to have received the bribe. Knowing that he is likely to have been seen leaving the hotel more than once, he takes the fifth. Evidence that he has something to hide, certainly: but it is philandering, rather than corruption. It would be hasty to conclude that the evidence we have that he has some evidence concerning the allegation is evidence that he is guilty, when the evidence he has in fact exonerates him of that charge.

are right. Even if the latter gives me reason to defer, that does not mean that I have been given evidence against the proposition I believed before discovering your belief concerning it.

What is missing here is precisely what is guaranteed (*de jure*) with eye-witness testimony. Being under oath, a witness can be assumed to be truthful in a way that the source of hearsay cannot. This means that a witness' saying that he saw the accused commit the crime is as good as my seeing it and thus counts as evidence of his guilt. His reporting that someone said that he witnessed the crime is not. In other words, we assume that there is a content-connection between the eye-witness testimony that  $p$  and  $p$ .<sup>52</sup>

Suppose that I have probative evidence<sub>1</sub> that my near-peer thinks he has probative evidence that  $p$  is false. According to (EEE), this entails that I have probative evidence<sub>2</sub> that  $p$  is false. This can be the case only if his evidence *is* probative. In order for me to think that it is I must either know what evidence<sub>2</sub> is and take it to be evidence that  $p$  is false or take my near-peer to be my epistemic superior. If I do the latter, that does give me reason to believe that  $p$  is false. But it does not give me evidence that it is. Even if I do take my near-peer to be my epistemic superior and thus regard his evidence as probative, that still does not entail that I have evidence<sub>2</sub> that  $p$  is false. Given that I do not know what his evidence is, my belief is based on mere authority. And while that, as we have allowed, may give me a good reason to believe that  $p$  is false, it does not give me (probative) evidence that it is for want of a content-connection between the evidence I have (evidence<sub>1</sub>) and  $p$ . On the other hand, suppose that I know what his evidence is and take it to be good evidence that  $p$  is false. Now it can be said that I do have evidence that  $p$  is false, except that it is not evidence<sub>2</sub>, as it does not flow from evidence<sub>1</sub>, that is, from the fact that I have evidence that my near-peer has evidence that  $p$  is false. If I know what his evidence is and judge it to be good, that is because I see a content-connection between it and  $p$  and thus believe that  $p$  is false because his evidence is as it is. However, its being as it is is obviously not entailed

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<sup>52</sup> Fitelson, in offering counter-examples to various ways of understanding the claim that evidence<sub>1</sub> of evidence<sub>2</sub> is evidence<sub>3</sub>, seems to recognize the lack of content-connection we have been pointing to. He describes cases in which evidence<sub>1</sub> is epistemically irrelevant to  $p$  in that it does not raise  $p$ 's epistemic probability, thus "... nothing p-supporting [i]s part of" the evidence<sub>1</sub> one has. We agree, but we are puzzled by the parenthetical 'necessarily' in the title of Fitelson's paper. We think such considerations show that evidence<sub>1</sub> in and of itself is *never* evidence<sub>2</sub> that  $p$  in cases disagreement. For more on Fitelson's case, see Lampert and Biro, "What is Evidence of Evidence Evidence of?".

by my near-peer's thinking that it is. Thus (EEE) fails either way, whether I take my near-peer to be my superior or not.

As we have already emphasized, this is not to say that your telling me that you have evidence against what I believe cannot, even by itself, be reason for changing my mind. If I think you trustworthy, and examining the evidence you claim to have would be impractical, that may be the reasonable thing to do. But none of this is of any help to (EEE). That I have reason to suspend judgment, or even defer to you, in the face of evidence that you have evidence against a proposition I believed before gaining my evidence does not mean that I have evidence against the proposition. Consider another case of Feldman's, that of the two detectives, one of whom has what he believes is evidence incriminating Righty, with the other thinking that he has evidence convicting Lefty. Suppose that the evidence on the basis of which the first concludes that Righty is the culprit was planted by Tricky. We can concede that that evidence, were it genuine, would (tend to) prove Righty guilty and also that our first detective, having no reason to suspect a frame-up, is justified in believing that he is. We would draw the same conclusion in his place. This does not make it true that the evidence he has is actually evidence that Righty is guilty and if we know that it is a plant we do not so regard it.<sup>53</sup> Should the second detective do so on finding that the first has what he takes to be evidence against Righty? Since he does not know – any more than does the first detective – that the evidence is phony and has no reason to suspect that it may be, the right thing for him may well be to suspend judgment, at least pending further investigation. But that does not mean that he now has evidence that Righty is guilty. Furthermore, even if Righty *were* guilty, his being so, even if it explained the first detective's evidence, would not explain the evidence the second detective has about the first.

Two central facts about what we are calling probative evidence are, first, that no evidence can be such evidence for me if I do not know what it is and, second, that someone's (even an expert's) thinking that something is the case is not evidence that it is the case. (EEE) fails to respect both these facts. First, it asserts that your having some evidence, I know not what, counts as evi-

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<sup>53</sup> We have evidence – Shakespeare says so – that Othello sees the handkerchief he had given Desdemona in Cassio's hands and takes that as evidence of her infidelity. Were we not aware of Iago's machinations, we might, too. As it is, we know that it is not.

dence for me. Second, it says not just that your thinking that something is the case is evidence that it is but something even stronger, namely, that your thinking that you have evidence that something is the case is evidence that it is. In fact, one's having evidence and one's thinking that one has evidence are independent of each other: not only is it possible to think that one has evidence that  $p$  and fail to have it, it is also possible to have evidence that  $p$  and fail to realize that one has it.

### c) *Evidence and having evidence*

Tal and Comesaña have recently argued that while (EEE) is false on most understandings of it (including Feldman's own), there is one interpretation on which it is true, but trivial.<sup>54</sup> Their criticisms of other interpretations, as well as their defence of their own, rests on two distinctions they make. The first is that between someone's *having* evidence and there *being* evidence (which, perhaps, no-one has). The second is between *de re* and *de dicto* readings of (EEE).<sup>55</sup> Tal and Comesaña argue that (EEE) is true (only) if interpreted as saying that my having evidence that you have evidence that  $p$  is evidence that there is something that is evidence that  $p$ . This does not entail that I have evidence that  $p$  and thus does not require that I know what your evidence is.

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<sup>54</sup> See Eyal Tal and Juan Comesaña, "Is Evidence of Evidence Evidence?" *Nous* 51, 1, (2017): 95-112.

<sup>55</sup> The relevant version of (EEE), according to Tal and Comesaña, is the following:

$$\text{(Existential EEE1 de dicto): } \forall(e)\forall(p)\forall(S)\forall(\alpha > 0)\forall(\beta > 0)((F(e, \exists(e')(T(e') \wedge F(e', p, \alpha)), \beta)) \rightarrow \exists(\gamma > 0) (F(e, p, \gamma)))$$

which is to be read as "for all  $e$  and  $p$ , if  $e$  is evidence that there is evidence  $e'$  for  $p$ , then  $e$  is evidence for  $p$ ," Tal and Comesaña, "Is Evidence of Evidence Evidence?", 102. Their own version, however, is this:

$$\text{(Existential EEE1 de dicto no defeat): } \forall(e)\forall(p)\forall(\alpha > 0)\forall(\beta > 0)\forall(\gamma > 0)(F(e, \exists(e')(T(e') \wedge F(e', p, \alpha)), \beta) \wedge (F(e \wedge \exists(e')(T(e') \wedge F(e', p, \alpha), p, \gamma)) \rightarrow \exists(\delta > 0)(F(e, p, \delta)))$$

which is to be read as "for all  $e$  and  $p$ , if (i)  $e$  is evidence that there is evidence for  $p$  and (ii)  $e$  is not a defeater for the support that the proposition that there is evidence for  $p$  provides for  $p$ , then  $e$  is evidence for  $p$ ," Tal and Comesaña, "Is Evidence of Evidence Evidence?", 108. As will become clear, our criticism applies to both versions.

As far as the first of these distinctions goes, we agree that there being evidence does not entail that someone has it.<sup>56</sup> But someone's having evidence does entail there being evidence unless we read the first non-probatively. But even if we assume that I have probative evidence that you have evidence that  $p$ , my evidence shows that there is evidence that  $p$  in the probative sense only if the evidence you have is probative. Tal and Comesaña assume that it is.<sup>57</sup> But, as we have already argued, to have evidence that there is probative evidence one has to know what the evidence supposedly probative is and to judge it probative. Doing this requires knowing what the evidence in question is, rather than just have evidence that, whatever it is, it exists, which is all (EEE) allows. Knowing what the evidence is is tantamount to having it.

Tal and Comesaña say that

...evidence that there is evidence for  $p$  may be sufficient for counting as evidence for  $p$  even if nobody has it (suppose, for instance, that all the researchers involved in studying whether  $p$  declare that they found excellent evidence for  $p$ , but then die before telling us what the evidence is).<sup>58</sup>

But “declare that they found evidence” does not mean that they have probative evidence, however excellent they *say* it is. It does not even entail that there *is* evidence probative *or* non-probative. The researchers may be mistaken in thinking that what they have is evidence even in the non-probative sense. Suppose the value of neither one of two variables they think is evidence of their hypothesis really is such., They may be mis-reading a measurement, taking it to give the value of one of the variables when in fact it gives that of the other. Then they do not even have

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<sup>56</sup> And one can even have evidence that there is evidence that  $p$  without having evidence that someone has evidence that  $p$ . Suppose I have (non-probative) evidence that you, having killed your shipmate, threw the murder weapon into the sea. This is evidence that there is evidence that you are guilty; alas, no-one has it or, probably, ever will.

<sup>57</sup> Actually, they make it clear that they think of evidence as factive: “We will assume here that someone has a proposition as evidence only if that proposition is true... To make the factivity transparent, we will symbolize that subject  $S$  has evidence  $E$  with ‘ $T(e) \wedge S(e)$ .’” (4) If ‘evidence’ in both ‘ $S$  has evidence’ and ‘there is evidence’ is factive, the first clearly entails the second. (EEE) may be true interpreted as saying that if one has evidence that entails that one's peer has evidence that entails that  $p$  one has evidence that  $p$ . But since one never has such evidence, so interpreted it is useless as a guide to epistemic conduct.

<sup>58</sup> Tal and Comesaña, “Is Evidence of Evidence Evidence?”, 103. We have avoided the locution ‘evidence for  $p$ ,’ preferring ‘evidence that  $p$ ,’ as substituting for ‘ $p$ ’ yields ‘evidence that it is raining’ in the latter but the nonsensical ‘evidence for it is raining’ in the former.

non-probative evidence, even though they think they do.

Regarding the second distinction, between *de re* and *de dicto* readings of (EEE), Tal and Comesaña say the following:

Just as there is a difference between believing that a specific person is a spy and believing the existential proposition that there are spies, there is an analogous difference between *e* being evidence for a specific proposition which is evidence for *p*, and *e* being evidence for the existential proposition that there is evidence for *p*.<sup>59</sup>

On the *de re* reading, (EEE) entails that the one for whom evidence<sub>1</sub> of evidence<sub>2</sub> is supposed to be evidence<sub>3</sub> knows what evidence<sub>2</sub> is. If so, it is not the evidence that someone else has it or that it exists that is evidence that *p* but evidence<sub>2</sub> itself. On this reading, in having E<sub>1</sub> one *eo ipso* has E<sub>2</sub>, making the first E of (EEE) idle. On the other hand, since on the *de dicto* reading (which Tal and Comesaña argue is the correct one) it is not specified what the evidence that *p* is, one cannot judge whether it is probative. Not being able to do that means that one does not have evidence that *p*. It *may* be the case that there *is* evidence that *p* and that the experts had it. There may also be, as Tal and Comesaña suggest, such a thing as evidence that no one has. Neither is any help to (EEE). The experts' declaration may, of course, give others excellent *reason* to accept *p*. But it does not give them evidence that *p*.

Not only does evidence that someone has evidence that *p* fall short of being evidence that *p*, sometimes it stands in the way of having evidence that *p*. Think about Lois Lerner's taking the fifth at the recent congressional hearings on the IRS' allegedly targeting conservative organizations. Her doing so is evidence that (she thinks) there is evidence to support the allegations. Yet not only does the committee not have such evidence as a result of her declining to answer questions, her exercising the right to do so is intended (by both her and the Constitution) to make sure that it does not. The committee – and we – have ample reason to be suspicious. But that is not the

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<sup>59</sup> Tal and Comesaña, "Is Evidence of Evidence Evidence?", 97. They offer the following formalizations for the two readings:

(*e* is evidence that there is *de re* evidence for *p*):  $\exists(e')\exists(\alpha > 0)\exists(\beta > 0)(F(e, e', \alpha) \wedge F(e', p, \beta))$ .

(*e* is evidence that there is *de dicto* evidence for *p*):  $\exists(\alpha > 0)\exists(\beta > 0)(F(e, \exists(e')(T(e') \wedge F(e', p, \alpha)), \beta))$ .



same thing as having evidence, which is why the committee is demanding to see Lerner's e-mail messages and she is refusing to let them.

What about Tal and Comesaña's distinction between having evidence and there being evidence, though? Is her refusal not evidence that there *is* evidence against her, even if it is shielded from the committee? Well, no. She may think that there is and be mistaken. She may be badly advised by her attorney. Once again, the evidence we have that she (thinks) she has incriminating evidence may be a reason for thinking that she does, but it is not evidence that she does. (As President Obama so intriguingly put it, "there is not a shred of evidence" of wrong-doing.)<sup>60</sup>

Thus (EEE) understood along the lines Tal and Comesaña recommend is as vulnerable to these objections as on any other interpretation.

## Conclusion

Disagreement between people who are peers strictly speaking is impossible. Disagreement between people who are peers to all appearance is frequent, but we know that the appearance is deceptive. Of course, knowing that one party must be epistemically superior is one thing, knowing which is another. While the latter can be hard to figure out, trying to do so is usually the proper response to disagreement. When that is impractical, we can choose between deferring to expertise, suspending judgment and agreeing to disagree, depending on the case and, in particular, on the importance and urgency of the matter. In whichever of these ways we respond, general principles of sensible epistemic conduct are all we need to rely on. We do not need (EEE) in addition to these.

Returning now to the question of dependence. If in the face of a near-peer's disagreement all one needs are the general principles of sensible belief-formation, with the near-peer's belief playing no evidential role, it cannot be said that in forming the belief one does on learning of the

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<sup>60</sup> Nothing hangs on the particulars of this case in its involving constitutional considerations. Hilary Clinton's refusal to make her private server available for inspection by an independent party may be seen as evidence that she has something to hide, but – happily or unhappily, take your pick – it is not evidence that she does, as she well knows.

disagreement one is epistemically dependent. It is instructive to compare the situation with the genuine case of epistemic dependence we have when in forming our belief about something we take into account the opinion of an expert. We believe that the expert has evidence we do not have. The evidence we have of that is the independent evidence we have that he is an expert where we are not. This is just what is missing in the case of near-peer disagreement. What alerts us to the fact that someone who appears to be our peer is not is the fact that he disagrees with us. That tells us that he is either our epistemic superior or our epistemic inferior, but it does not tell us which. It does not tell us even whether our epistemic difference consists in having different evidence, rather than differing assessment of our common evidence. But even if it happens that it is the former, we have no reason to believe that any evidence our disputant may have that we do not is probative evidence, something we assume with someone we believe, on good grounds, to be an expert. This is why we take his evidence into account in a way we have no reason to do with a near-peer's. As we have argued, even if we have evidence that a near-peer has evidence against our belief, that gives us no evidence against our belief. Contrary to what (EEE) implies, we are not epistemically dependent on a near-peer who disagrees with us.<sup>61</sup>

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<sup>61</sup> We are grateful to Harvey Siegel, Pedro Merluzzi, and Jonathan Matheson for many helpful comments on previous drafts of this paper.