



LCJ Launches New ‘Don’t Say *Daubert*’ Web Portal as Advisory Committee on Evidence Rules Solicits Comments on Amendment to FRE 702

New resource page highlights courts’ repeated misapplication of expert evidence admissibility standards, encourages public to submit comments supporting proposed reforms

Arlington, VA – August 9 – Lawyers for Civil Justice (LCJ) – Today, Lawyers for Civil Justice launched a new web portal focused on expert evidence reform, [Don’t Say *Daubert*](#), highlighting the need for amendment to Federal Rule of Evidence (FRE) 702. The launch of the website comes as the Advisory Committee on Evidence Rules [invites public comments](#) on a [proposed amendment to FRE 702](#) that would clarify the widely misunderstood standards for expert evidence admissibility in U.S. federal courts.

“No matter how you pronounce it, the famous *Daubert* Supreme Court case doesn’t set the standards for expert evidence admissibility – Rule 702 does,” LCJ General Counsel Alex Dahl said. “The amendment process is a perfect time to get rid of the inaccurate slang by saying ‘Rule 702’ when referring to the standards for admitting expert testimony. We strongly encourage members of the bar to submit comments in support of the Advisory Committee’s amendment, which will clarify the standards for expert evidence and bring greater fairness to our civil justice system.”

Since the Supreme Court’s landmark 1993 decision in *Daubert v. Merrell Dow Pharmaceuticals*, the word “Daubert” has become a de facto shorthand for the standard by which expert evidence is evaluated for admissibility before a federal civil jury. However, it’s Federal FRE 702, not Daubert, that sets the standard that courts must follow in determining whether expert testimony is admissible.

The use of ‘Daubert’ instead of ‘Rule 702’ affects people’s understanding of what standards apply to those motions. While the ‘*Daubert* standard’ is based on a lineage of case law, the more recent Rule 702 standard is based on the 2000 amendment to the rule approved by the Supreme Court and Congress, codifying it into law. The current [proposed amendment to Rule 702](#) would further clarify that courts are responsible for determining the admissibility of expert opinion testimony, rather than leaving fundamental questions about the basis of expert opinions to a jury. The

widespread misunderstanding of expert evidence admissibility standards in both trial and appellate courts within every federal circuit for more than two decades have led to decisions that are patently incompatible with Rule 702.

The [web portal](#) outlines the history behind expert evidence admissibility standards, which shows that the all-too-common invocation of “the Daubert standard” should be discarded and replaced with “the Rule 702 standard.”

The Advisory Committee on Evidence Rules opened its six-month public comment period on Friday, August 6. To learn why FRE 702 needs to be amended and how to submit a comment on the proposed rulemaking, visit www.DontSayDaubert.com.

To read the full text of the proposed amendment to FRE 702, [click here](#).

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**DON'T SAY
DAUBERT**