FEDERAL RULE OF EVIDENCE 702:
A ONE-YEAR REVIEW AND STUDY OF DECISIONS IN 2020

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1 Lawyers for Civil Justice (“LCJ”) is a national coalition of corporations, law firms, and defense trial lawyer organizations that promotes excellence and fairness in the civil justice system to secure the just, speedy, and inexpensive determination of civil cases. LCJ Fellows are selected by LCJ’s Diversity and Young Lawyers Committee from LCJ’s corporate and law firm members as future leaders who offer diverse, unique, and fresh perspectives, and have a demonstrated interest in civil justice reform. Each LCJ Fellow serves a three-year term.
Executive Summary

Lawyers for Civil Justice (“LCJ”) conducted a comprehensive research study examining all federal cases decided in 2020 that addressed the admissibility of expert testimony under Federal Rule of Evidence 702. The research focused on various objective factors, including:

- whether the court articulated a standard requiring the proponent of proffered expert evidence to show proof of admissibility by a “preponderance of the evidence”;
- whether the court held a hearing to determine admissibility;
- whether the court noted that a determination based on “weight” or “credibility” was distinct from the admissibility;
- whether the court indicated having doubts that the evidence was admissible;
- whether the proffered expert evidence was admitted, partially admitted, or denied; and
- whether the court decided multiple motions to exclude experts at the same time.

The research yielded the following results, among other findings:

- 1,059 federal opinions in 2020 addressed expert admissibility under Rule 702.
  - 35% (373) mention that the proponent bears the burden of proving admissibility by a preponderance of the evidence.
  - 65% (686) do not mention the proponent’s burden of proof or preponderance standard.
  - 13% (135) use language indicating a presumption of admissibility (e.g., Rule 702 has a “liberal thrust” favoring admission).
  - 6% (61) required a showing of admissibility by a preponderance of the evidence and stated a presumption favoring admissibility (“liberal thrust” standard).

- In 61% of federal judicial districts (57 of 93), courts split over whether to apply the preponderance standard when assessing admissibility. District splits exist in every federal appellate circuit. In one judicial district, conflict even arose between two judges assigned to the same case—one judge articulated the preponderance standard in deciding expert motions while the other did not.

- The evidence demonstrates the need for an amendment clarifying that the court must find Rule 702’s admissibility requirements to be established by a preponderance of the evidence prior to admitting expert evidence. This change would improve practice by reducing confusion and inconsistency in the federal courts.
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Introduction: LCJ examined and analyzed one year of federal court rulings on the admissibility of expert testimony to determine how courts are applying Rule 702.

Methodology: LCJ researchers identified more than 1,000 cases decided in 2020 on the issue of expert evidence admissibility. The researchers focused on cases in which the trial judge admitted, partially admitted, or denied expert testimony using an analysis under Federal Rule of Evidence 702, *Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 509 U.S. 579 (1993), or both. The researchers eliminated cases in which the court did not make a decision on expert admission (i.e., cases only briefly mentioning Rule 702 or *Daubert*, or setting a hearing but not actually deciding admissibility). The researchers reviewed every remaining opinion, noting the following specific factors as individual data points:

- whether the court held a hearing to review the evidence;
- whether the court articulated a standard requiring the proponent of proffered expert evidence to show proof of admissibility by a “preponderance of the evidence”;
- whether the court noted that a determination based on “weight” or “credibility” was distinct from the admissibility;
- whether the court indicated having doubts that the evidence was admissible;
- whether the court noted that Rule 702 has a presumption or “liberal thrust” favoring admission of expert evidence;
- whether the proffered evidence was admitted, partially admitted, or denied; and
- whether the court decided multiple motions for exclusion at the same time.

Results: In 2020, there were 1,059 federal cases in which the trial judge admitted, partially admitted, or denied expert testimony. In approximately 35% of the cases (373), the trial judge required the proponent to prove the admissibility of the expert evidence by a preponderance of the evidence. In almost two-thirds of the cases—65% (686 of 1059)—the trial judge did not mention the preponderance standard at all. About 13% of the time (135 cases), the judge described the analysis under Rule 702 or *Daubert* as having a “liberal thrust,” employed a “liberal policy favoring admissibility,” or stated that “exclusion is the exception rather than the rule”— contrary
to the requirement of Rules 702 and 104(a) that the proponent must prove the admissibility of the proffered expert testimony by a preponderance of the evidence.

Courts were split over whether to mention the preponderance standard in at least 57 federal judicial districts, a number of which had the nation’s busiest dockets in 2020. These intra-district splits occurred in federal appellate circuit. For example, the Western District of Texas applied the preponderance standard in nine cases, but either adopted a liberal admissibility standard or otherwise did not mention the preponderance standard in eight others. Similarly, the Southern District of New York applied the preponderance standard in twelve cases, failed to mention it in twenty-five cases, and followed a “liberal thrust” in thirteen cases. Even in the same case, two judges for the Southern District of New York articulated different standards when deciding the parties’ expert motions. The Central District of California yielded similar results—six cases applying preponderance, twenty-seven cases not mentioning preponderance, and four following a “liberal thrust” approach.

These results indicate that the most active federal courts disagree internally over the correct interpretation of Rule 702. Further, there can be dissimilar outcomes in substantially similar cases since testimony that is excluded by one court applying the preponderance standard of Rules 702 and 104(a) may be admitted by another applying a “liberal thrust” approach.

Approximately 6% of decisions cite both the preponderance standard and a presumption favoring admissibility (a “liberal thrust” approach). This is a remarkable finding given that these standards are inconsistent with each other. The preponderance standard establishes a minimum threshold the party putting forth expert evidence must meet. If the proponent fails to meet this threshold, or if the reasons for admitting and denying create a “tie,” the evidence is not admitted. In contrast, a presumption favoring admissibility under a “liberal thrust” approach does not hold the proponent of the evidence to a minimum proof threshold, leading to what some courts describe

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4 See Appendix A for a representative sample of cases from the research, disaggregated by federal judicial district, indicating whether the court mentioned the preponderance standard or not.
5 See Mark A. Behrens & Andrew J. Trask, The Rule of Science and the Rule of Law, 49 Sw. U. L. Rev. 436, 452 (2021) (“The attractiveness of our nation as a place for investors to deploy their capital is diminished when lawsuit outcomes are unpredictable and divorced from mainstream science.”).
6 See Appendix B for list of cases that cite both the preponderance standard and a presumption favoring admissibility.
as “shaky but admissible evidence.” And even if some proof is shown, “ties” result in admitting the evidence. This data point indicates that some federal courts are confused about the correct standard to apply, or even what the different standards mean.

Additionally, approximately 13% of cases (133 cases) addressed multiple motions for exclusion, some of which reflected different decisions regarding admission for different expert testimony. In 192 cases (18%), the trial judge specifically mentioned that the court conducted a “Daubert hearing” to assess the admissibility of testimony.7

**Conclusion:** Courts’ inconsistent application of the preponderance standard in 2020 cases demonstrates that Rule 702 is not applied the same way throughout the country, or even within the same federal circuit or judicial district. Further, the number of courts that acknowledge the preponderance standard but still adopt a “liberal thrust” favoring admissibility may reflect larger confusion among federal courts about how to apply Rule 702.

The evidence demonstrates the need for an amendment clarifying that Rule 702 requires courts to find that the rule’s admissibility requirements are established by a preponderance of the evidence prior to admitting expert evidence. This change would improve practice by reducing confusion and inconsistency in the federal courts.

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7 Since 2020 was a year in which, for public health reasons related to COVID-19, few hearings occurred, we note that the count of hearings included telephonic hearings and teleconferences.
Appendix A

Federal Rule of Evidence 702 Cases by Judicial District
Preponderance Standard Versus Non-Preponderance Approach

Central District of California


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_District of Arizona


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_District of Colorado


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_Heatherman v. Ethicon Inc._, 2020 WL 5798533, at *2 (D. Colo. Sept. 29, 2020) (partially admits expert testimony; “A key but sometimes forgotten principle of Rule 702 and
Daubert is that Rule 702, both before and after Daubert, was intended to relax traditional barriers to admission of expert opinion testimony. Accordingly, courts are in agreement that Rule 702 mandates a liberal standard for the admissibility of expert testimony… [T]he rejection of expert testimony is the exception rather than the rule.”) (cleaned up); see also Hutchison v. Walmart Inc., 2020 WL 9075067, at *1 (D. Colo. Oct. 27, 2020) (limits testimony; “Rule 702 mandates a liberal standard for the admissibility of expert testimony.”).

**District of Connecticut**


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Armour Cap. Mgmt. LP v. SS&C Tech., Inc., 2020 WL 64297, at *7-9 (D. Conn. Jan. 5, 2020) (partially admits expert testimony without preponderance because proposed expert “appears to be a qualified expert whose testimony may be helpful to the jury provided that he does not stray from the scope of his expertise”); see also Ashley v. City of Bridgeport, 473 F. Supp. 3d 41, 44-45 (D. Conn. July 22, 2020).

**District of Delaware**

Delaware State Univ. v. Thomas Co Inc., 2020 WL 6799605, at *7 (D. Del. Nov. 19, 2020) (excludes expert testimony; “The party proffering the expert bears the burden of demonstrating that the expert’s opinion is reliable and fits the facts by a preponderance of the evidence.”).

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**District of the District of Columbia**


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Pinkett v. Dr. Leonard's Healthcare Corp., 2020 WL 1536305, at *6-7 (D.D.C. Mar. 31, 2020) (admits expert testimony because “[a]t this stage, given the ‘liberal thrust’ of the
Federal Rules, the Court finds that [the expert’s] testimony is admissible”; recognizing “the liberal thrust of the Federal Rules and their general approach of relaxing the traditional barriers to opinion testimony”) (cleaned up); see also Phoenix Restoration Grp., Inc. v. Liberty Mut. Grp. Inc., 2020 WL 622152, *3 (D.D.C. Feb. 10, 2020).

**District of Maryland**


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**District of Minnesota**

*Johannessohn v. Polaris Ind., Inc., 450 F. Supp. 3d 931, 969 (D. Minn. Mar. 31, 2020)* (admits expert testimony; “[T]he proponent of the expert testimony must show by a preponderance of the evidence both that the expert is qualified to render the opinion and that the methodology underlying his conclusions is scientifically valid.”) (cleaned up); see also *S. Minn. Beet Sugar Coop. v. Agri. Sys., 2020 WL 5105763, at *3-4 (D. Minn. Aug. 31, 2020).*

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**District of Nebraska**


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District of Nevada


District of New Jersey


*Florio v. Ryobi Techs. Inc.*, 2020 WL 5234924, at *2 (D.N.J. Sept. 2, 2020) (excludes expert testimony; “Rule 702 demands a ‘flexible’ inquiry”; “Although expert testimony ‘can be both powerful and quite misleading because of the difficulty in evaluating it,’ I must apply Rule 702’s requirements in accordance with the Federal Rules’ ‘liberal thrust,’ erring on the side of admission”; “I well understand that the Rules of Evidence favor the admission of expert testimony... [yet] [e]ven under the liberal Federal Rules admission standard, [the] proposed ‘expert’ testimony is little more than inadmissible wool gathering.”) (cleaned up); see also *Nagy v. Outback Steakhouse*, 2020 WL 5105196, at *1 (D.N.J. Aug. 31, 2020).

District of New Mexico

*Salopek v. Zurich Am. Life Ins. Co.*, 2020 WL 6384250, at * (D.N.M. Oct. 30, 2020) (excludes expert testimony; “As the proponent of the expert, Plaintiff bears the burden to establish by a preponderance of the evidence that the requirements for admissibility have been met.”); see also *Rawers v. United States*, 2020 WL 5658093, at *8-10 (D.N.M. Sept. 23, 2020) (admits expert testimony; “The proponent of expert testimony has the burden of establishing by a preponderance of the evidence that the pertinent admissibility requirements are met.”) (cleaned up).

“Daubert provides a ‘flexible’ framework for courts to use in their roles as gatekeepers of expert testimony.”

**District of Puerto Rico**

*De Jesus v. Andres Reyes Burgos Inc.*, 2020 WL 5520642, at *4 (D.P.R. Sept. 14, 2020) (admits expert testimony; “The proponent of the expert testimony… must establish admissibility by a preponderance of the evidence.”) (citing Fed. R. Evid. 702 advisory committee’s note to 2000 amendment (“[T]he admissibility of all expert testimony is governed by the principles of Rule 104(a). Under that Rule, the proponent has the burden of establishing that the pertinent admissibility requirements are met by a preponderance of the evidence.”)).

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**District of South Carolina**


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*In re Nelums*, 2020 WL 7249548, at *5-6 (D.S.C. Mar. 17, 2020) (excludes expert testimony; “Ultimately, an expert’s testimony is admissible under Rule 702 if it rests on a reliable foundation and is relevant” without the proponent bearing any burden to prove admissibility.) (cleaned up); *see also Schaeffer v. Williams*, 2020 WL 833017, at *1-2 (D.S.C. Feb. 20, 2020).

**District of Utah**

*United States ex rel. Polukoff v. St. Mark's Hosp.*, 2020 WL 3271044, at *1-2 (D. Utah June 17, 2020) (admits expert testimony; “Preliminary questions concerning the qualification of a person to be a witness should be established by a preponderance of proof.”).

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**District of Wyoming**


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**Eastern District of Arkansas**


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**Eastern District of Kentucky**

*Owens v. Ethicon, Inc.*, 2020 WL 1976642, at *1-3 (E.D. Ky. Apr. 24, 2020) (partially admits expert testimony; “[U]nder Daubert and its progeny, a party proffering expert testimony must show by a preponderance of proof that the expert whose testimony is being offered... will testify to scientific knowledge that will assist the trier of fact in understanding and disposing of issues relevant to the case.”); *see also Boyer v. Shirley*, 2020 WL 6785940, at *5 (E.D. Ky. Nov. 18, 2020).

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**Eastern District of Louisiana**

*Adriatic Marine, LLC v. Harrington*, 2020 WL 748024, at *5 (E.D. La. Feb. 14, 2020) (excludes expert testimony; “When expert testimony is challenged, the party seeking to present the testimony has the burden of proving, by a preponderance of the evidence, that
the testimony satisfies [Rule 702].”); see also Willow Bend Ventures, LLC v. Van Hook, 2020 WL 2113607, at *5-6 (E.D. La. May 4, 2020).

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Henderson v. Atmos Energy, 496 F. Supp. 3d 1011, 1015-18 (E.D. La. Oct. 21, 2020) (excludes expert testimony; acknowledging that “[w]hen expert testimony is challenged under Rule 702 and Daubert, the burden of proof rests with the party seeking to present the testimony,” but staying silent as to whether that burden requires preponderance of evidence) (cleaned up); see also Collins v. Benton, 470 F. Supp. 3d 596, 601-02 (E.D. La. July 2, 2020) (admits expert testimony; “The court’s inquiry into the reliability of expert testimony is flexible and fact-specific”; “As a general rule, questions relating to the bases and sources of an expert’s opinion affect the weight to be assigned that opinion rather than its admissibility.”) (cleaned up).

Eastern District of Michigan


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Eastern District of Missouri

Refrig. Supplies Inc. v. Acadia Ins. Co., 507 F. Supp. 3d 1096, 1101-02 (E.D. Mo. Dec. 17, 2020) (admits expert testimony; “the party offering the expert testimony ‘must show by a preponderance of the evidence both that the expert is qualified to render the opinion and that the methodology underlying his conclusions is scientifically valid’”) (cleaned up); see also Pitlyk v. Ethicon Inc., 478 F. Supp. 3d 784, 786-87 (E.D. Mo. Aug. 12, 2020).

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Eastern District of Pennsylvania

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Eastern District of Texas


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Hale v. Denton Cnty., 2020 WL 4431860, at *2 (E.D. Tex. July 31, 2020) (admits expert testimony; “[T]he decision to allow or exclude experts from testifying under Daubert is committed to the sound discretion of the district court,” and not based on the proponent’s burden of proof); see also Kumar v. Frisco Indep. Sch. Dist., 2020 WL 1503270, at *2 (E.D. Tex. Mar. 27, 2020) (admits expert testimony; “[T]he Daubert framework is ‘a flexible one.’”).

Middle District of Florida


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Middle District of Pennsylvania


**Northern District of Alabama**

Walker v. Ergon Trucking, Inc., 2020 WL 6537651, at *2-4 (N.D. Ala. Apr. 23, 2020) (excludes expert testimony because proponent of expert testimony “has not shown by a preponderance of the evidence that [expert] is qualified to offer an opinion”).


**Northern District of California**


**Northern District of Florida**

Fernandez v. United States, 2020 WL 3105925, at *4-5 (N.D. Fla. June 4, 2020) (excludes expert testimony; “The party offering the purported expert has the burden of showing, by a preponderance of the evidence, that each of [the expert admissibility] requirements has been met.”) (cleaned up); see also Arevalo v. Coloplast Corp., 2020 WL 3958505, at *1-2 (N.D. Fla. July 7, 2020).
In re Deepwater Horizon Belos Cases, 2020 WL 6689212, at *1 (N.D. Fla. Nov. 4, 2020) (excludes expert testimony; no mention of any admissibility standard or burden of proof).

Northern District of Georgia


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Northern District of Illinois


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Northern District of Indiana


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Northern District of Iowa

Nicholson v. Biomet, Inc., 2020 WL 3399899, at *3, *5 (N.D. Iowa Mar. 6, 2020) (partially admits expert testimony; “To satisfy the reliability requirement, the party offering the expert testimony ‘must show by a preponderance of the evidence both that the expert is qualified to render the opinion and the methodology underlying his conclusions is scientifically valid.’”) (cleaned up).

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Northern District of New York


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Northern District of Oklahoma

Perry v. Safeco Ins. Co. of Am., 2020 WL 1166085, at *1-2 (N.D. Okla. Mar. 11, 2020) (excludes expert testimony; explaining that “the proponent of the testimony bears the burden of proving by a preponderance of the evidence that its witness’s opinions are both relevant and reliable”).

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Northern District of Texas


Northern District of West Virginia


Romeo v. Antero Res. Corp., 2020 WL 1430468, at *2-3 (N.D. W.Va. Mar. 23, 2020) (admits expert testimony; “[T]he test of reliability is flexible and the law grants a district court the same broad latitude when it decides how to determine reliability as it enjoys in respect to its ultimate reliability determination.”).

Southern District of California


Southern District of Florida


Southern District of Georgia

Taylor v. USA King Trans., Inc., 2020 WL 1821014, at *3-4 (S.D. Ga. Apr. 9, 2020) (admits expert testimony; “The proponent of the expert opinion bears the burden of

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**Southern District of Indiana**


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**Southern District of Iowa**

Atos IT Solutions & Servs., Inc. v. ACT, Inc., 2020 WL 3399905, at *1-2 (S.D. Iowa Jan. 22, 2020) (partially admits expert testimony; “The reliability requirement is satisfied if the proponent shows, by a preponderance of the evidence, both that the expert is qualified to render the opinion and that the methodology underlying his conclusions is scientifically valid.”).

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Glenn Golden v. Stein, 2020 WL 6487687, at *1-4 (S.D. Iowa Oct. 5, 2020) (admits expert testimony; “[C]ases are legion that under Daubert, liberal admission is prevalent… and courts should resolve doubts regarding the usefulness of an expert’s testimony in favor of admissibility.”) (cleaned up).

**Southern District of Mississippi**


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Southern District of New York


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Southern District of Ohio


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Southern District of Texas


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**Western District of Arkansas**


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**Western District of Kentucky**

*Commins v. Genie Indus., Inc.*, 2020 WL 1189937, at *2-3 (W.D. Ky. Mar. 12, 2020) (admits expert testimony; “It is the proponent of the testimony that must establish its admissibility by a preponderance of proof.”).

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*Kentucky v. Marathon Pet Co.*, 464 F. Supp. 3d 880, 888-89 (W.D. Ky. June 1, 2020) (partially admits expert testimony; “*Daubert* provided a non-exclusive checklist for trial courts to consult in evaluating the reliability of expert testimony… Although the factors are not a ‘definitive checklist or test.’”) (cleaned up); see also *Schall v. Suzuki Motor of Am., Inc.*, 449 F. Supp. 3d 689, 693-94 (W.D. Ky. Mar. 27, 2020).

**Western District of Louisiana**


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**Western District of Michigan**


Western District of Missouri


Western District of New York

Sarkees v. E.I. DuPont de Nemours & Co., 2020 WL 906331, at *11-13 (W.D.N.Y. Feb. 25, 2020) (admits expert testimony; “[The proponents] have to demonstrate by a preponderance of evidence that their opinions are reliable.”) (cleaned up).

Western District of North Carolina


Wiener v. Axa Equitable Life Ins. Co., 481 F. Supp. 3d 551, 558-60 (W.D.N.C. Aug. 24, 2020) (partially admits expert testimony; “The [admissibility] inquiry to be undertaken by the district court is a flexible one focusing on the principles and methodology employed by the expert, not the conclusions reached.”).

Western District of Pennsylvania

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Western District of Tennessee


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Western District of Texas


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Western District of Virginia


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Western District of Washington


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Appendix B

Federal Rule of Evidence 702 Cases Employing Preponderance Standard and Presumption Favoring Admissibility

*Archer v. Bond*, 2020 WL 4931397, at *1 (W.D. Ark. Aug. 21, 2020) (admits expert testimony; “The proponent of expert testimony has the burden of showing by a preponderance of the evidence that these requirements are satisfied, but Rule 702 favors admissibility if the testimony will assist the trier of fact, and doubts regarding whether an expert’s testimony will be useful should generally be resolved in favor of admissibility.”) (cleaned up).

*Balura v. Ethicon, Inc.*, 2020 WL 819293, *6 (N.D.N.Y. Feb. 19, 2020) (partially admits expert testimony; “The proponent of expert testimony bears the burden of establishing the admissibility of such testimony by a preponderance of the evidence … Overall, though, the rejection of expert testimony is the exception rather than the rule.”) (cleaned up).


*Boatman v. Comcast of the S., L.P.*, 2020 WL 714146, at *7 (E.D. Tenn. Feb. 12, 2020) (partly admits expert testimony; “A party must show, by a preponderance of proof, that the witness will testify in a manner that will ultimately assist the trier of fact in understanding and resolving the factual issues involved in the case” but “[e]xclusion is the exception rather than the rule.”) (cleaned up).

*Bobcar Media, LLC v. Aardvark Event Logistics, Inc.*, 2020 WL 1673687, at *2 (S.D.N.Y. Apr. 6, 2020) (excludes expert testimony at summary judgment; “The proponent of expert testimony has the burden of establishing by a preponderance of the evidence that the admissibility requirements of Rule 702 are satisfied. Although Rule 702 requires courts to serve an initial gatekeeping function to keep out ‘junk science,’ it is nonetheless a well-accepted principle that Rule 702 embodies a liberal standard of admissibility for expert opinions.”) (cleaned up).

*Boyle v. Union Pac. R.R. Co.*, 2020 WL 6204342, at *4 (D. Neb. Oct. 22, 2020) (admits expert testimony; “To satisfy the reliability requirement, the party offering the expert testimony must show by a preponderance of the evidence that the methodology underlying the expert’s conclusions is scientifically valid” but “[c]ases are legion in the Eighth Circuit that call for the liberal admission of expert testimony.”).

*Browning v. Edmonson Cnty., Ky.*, 2020 WL 4718763, at *16 (W.D. Ky. Aug. 13, 2020) (admits expert testimony; “It is the proponent of the testimony that must establish its admissibility by a preponderance of proof. That being said, any doubts regarding the admissibility of an expert’s testimony should be resolved in favor of admissibility.”).

*Castles v. Tricam Indus., Inc.*, 2020 WL 4569209, at *2 (D.S.C. Mar. 27, 2020) (admits expert testimony; “First, courts should be mindful that Rule 702 was intended to liberalize the
introduction of relevant expert evidence and second courts must recognize that due to the difficulty of evaluating their testimony, experts witnesses have the potential to be both powerful and quite misleading. Regardless, the proponent of the expert testimony must establish its admissibility by a preponderance of proof.”) (cleaned up).

*Commins v. Genie Indus., Inc.*, 2020 WL 1189937, *3 (W.D. Ky. Sept. 1, 2020) (admits expert testimony; “It is the proponent of the testimony that must establish its admissibility by a preponderance of proof. That being said, any doubts regarding the admissibility of an expert’s testimony should be resolved in favor of admissibility.”) (cleaned up).

*Cosby v. KPMG, LLP*, 2020 WL 3548653, at *10 (E.D. Tenn. Jun. 29, 2020) (partially admits expert testimony; “A party must show, by a preponderance of proof, that the witness will testify in a manner that will ultimately assist the trier of fact in understanding and resolving the factual issues involved in the case” but “[e]xclusion is the exception, not the rule …”) (cleaned up).

*Cox v. Callaway Cnty., Missouri*, 2020 WL 1669425, at *1-2 (W.D. Mo. Apr. 2, 2020) (partially admits expert testimony; “Under Federal Rule of Evidence 702 and the guidance set forth in Daubert, expert testimony should be liberally admitted” including resolving doubts in favor of admissibility and favoring admissibility over exclusion, but “[t]he party seeking to admit expert testimony has the burden of establishing the admissibility of the experts’ testimony by a preponderance of the evidence.”) (cleaned up).

*Cyntec Co. Ltd. v. Chilisin Elecs. Corp.*, 2020 WL 5366319, at *3 (N.D. Cal. Sep. 8, 2020) (partially admits expert testimony at summary judgment; “The proponent of expert testimony bears the burden of establishing by a preponderance of the evidence that the admissibility requirements are met,” but “there is a presumption of admissibility”).

*Dries v. Sprinkler, Inc.*, 2020 WL 7425602, at *3 (W.D. Wash. Dec. 18, 2020) (admits expert testimony; “The proponent of expert testimony has the burden of establishing that the admissibility requirements are met by a preponderance of the evidence” but “Rule 702 should be applied with a liberal thrust favoring admission”) (cleaned up).


*Estate of Freiwald v. Fatoki*, 2020 WL 6712467 (E.D. Wisc. Nov. 16, 2020) (admits expert testimony; “The proponent of the expert bears the burden of demonstrating that the expert’s testimony would satisfy the Daubert standard by a preponderance of the evidence. The rule on expert testimony is liberal, however, and doubts about the usefulness of an expert’s testimony are generally resolved in favor of admissibility.”) (cleaned up).

Financial Guar. Ins. Co. v. Putnam Advisory Co., LLC, 2020 WL 4251229, at *2-3 (S.D.N.Y. Feb. 19, 2020) (partially admits expert testimony at summary judgment; “The proponent of expert testimony has the burden of establishing by a preponderance of the evidence that the admissibility requirements of Rule 702 are satisfied” but “[b]ecause the federal rules emphasize liberalizing expert testimony, doubts about whether an expert’s testimony will be useful should generally be resolved in favor of admissibility”) (cleaned up).

Gustafson v. BI-State Dev. Agency, 2020 WL 409011, at *1-2 (E.D. Mo. Jan. 24, 2020) (partially admits expert testimony; “The reliability requirement means that the party offering the expert testimony must show by a preponderance of the evidence both that the expert is qualified to render the opinion and that the methodology underlying his conclusions is scientifically valid” but “Rule 702’s requirements notwithstanding, courts should resolve doubts regarding the usefulness of an expert’s testimony in favor of admissibility”) (cleaned up).

Hoekman v. Educ. Minn., 335 F.R.D. 219, 236 (D. Minn. 2020) (partially admits expert testimony at class certification; “The proponent of the expert testimony must show, by a preponderance of the evidence, that the expert is qualified to render the opinion and that his or her methodology is scientifically valid” but “under Daubert, liberal admission of expert testimony is prevalent, and courts should resolve doubts regarding the usefulness of an expert’s testimony in favor of admissibility”) (cleaned up).

Hughes v. C.R. Bard Inc., 2020 WL 9078128, at *1 (W.D. Mo. Apr. 22, 2020) (admits expert testimony; “The party offering expert testimony must show by a preponderance of the evidence that the methodology underlying the expert’s conclusions is valid” but “[t]he standard for admission of expert testimony is a liberal one.”) (cleaned up).

In re Davol C.R. Bard Mesh Prod. Liab. Litig., 2020 WL 6605612, at *3 (S.D. Ohio Sep. 11, 2020) (partially admits expert testimony; “The burden is on the party proffering the expert testimony to demonstrate by a preponderance of proof that the opinions of their expert are admissible” but “[a]ny doubts regarding the admissibility of an expert’s testimony should be resolved in favor of admissibility”) (cleaned up).

In re Davol C.R. Bard Mesh Prod. Liab. Litig., 2020 WL 6603389, at *2 (S.D. Ohio Sep. 10, 2020) (partially admits expert testimony; “The burden is on the party proffering the expert testimony to demonstrate by a preponderance of proof that the opinions of their expert are admissible” but “[a]ny doubts regarding the admissibility of an expert’s testimony should be resolved in favor of admissibility”) (cleaned up).

In re Davol C.R. Bard Mesh Prod Liab Litig., 2020 WL 6605542, at *3 (S.D. Ohio Sep. 1, 2020) (partially admits expert testimony; “The burden is on the party proffering the expert testimony to demonstrate by a preponderance of proof that the opinions of their expert are admissible” but “[a]ny doubts regarding the admissibility of an expert’s testimony should be resolved in favor of admissibility”) (cleaned up).

expert report to demonstrate by a preponderance of proof that the opinions of their experts are admissible” but “[a]ny doubts regarding the admissibility of an expert’s testimony should be resolved in favor of admissibility”).

In re ResCap Liquidating Trust Litig., 432 F. Supp. 3d 902, 913 (D. Minn. 2020) (partially admits expert testimony; “proponents must demonstrate by a preponderance of evidence that the expert’s opinion is reliable” but “Courts generally support an attempt to liberalize the rules governing the admission of expert testimony, and favor admissibility over exclusion”).

In re Suboxone Antitrust Litig., 2020 WL 6887885, at *2 (E.D. Pa. Nov. 24, 2020) (partially admits expert testimony; “The party offering an expert must demonstrate, by a preponderance of the evidence, that the expert’s qualifications and opinions comply with Federal Rule of Evidence 702” but “Rule 702 has a liberal policy of admissibility and the rejection of expert testimony is the exception rather than the rule”).

In re Term Commodities Cotton Futures Litig., 2020 WL 5849142, at *11 (S.D.N.Y. Sep. 30, 2020) (partially admits expert testimony; “There is a presumption of admissibility of expert evidence and the rejection of expert testimony is the exception rather than the rule. However the proponent of expert testimony has the burden of establishing by a preponderance of the evidence that the admissibility requirements of Rule 702 are satisfied.”) (cleaned up).

Jayne v. City of Sioux Falls, 2020 WL 2129599, at *2-3 (D.S.D. May 5, 2020) (admits expert testimony; Rule 702 “clearly is one of admissibility rather than exclusion” but “the party offering the expert testimony must show by a preponderance of the evidence that the methodology underlying the expert’s conclusions is scientifically valid”) (cleaned up).

Jorn v. Union Pac. R.R. Co., 2020 WL 6261693, at *4-5 (D. Neb. Mar. 25, 2020) (admits expert testimony; “the party offering the expert testimony must show by a preponderance of the evidence that the methodology underlying the expert’s conclusions is scientifically valid” but “[c]ases are legion in the Eighth Circuit that call for the liberal admission of expert testimony”) (cleaned up).


Krause v. Cnty. of Mohave, 459 F. Supp. 3d 1258 (D. Ariz. 2020) (partially admits expert testimony; “Rule 702 should be applied consistent with the liberal thrust of the Federal Rules and their general approach of relaxing the traditional barriers to opinion testimony” but “[i]n applying the Rule, the district court acts as a gatekeeper and determines whether expert testimony has a reliable basis in the knowledge and experience of the relevant discipline by the preponderance of the evidence”) (cleaned up).

Lampton v. C.R. Bard Inc., 2020 WL 7013356, at *1 (W.D. Mo. Nov. 27, 2020) (admits expert testimony; “The party offering expert evidence must show by a preponderance of the evidence that the methodology underlying the expert’s conclusions is valid” but “[t]he standard for admission of expert testimony is a liberal one”) (cleaned up).
Lancaster v. Ethicon, Inc., 2020 WL 819291, at *5 (N.D.N.Y. Feb. 19, 2020) (partially admits expert testimony; “The proponent of the expert testimony bears the burden of establishing the admissibility of such testimony by a preponderance of the evidence” but “[o]verall, though, the rejection of expert testimony is the exception rather than the rule”).


Liberty Towers Philly LP v. Ulysses Asset Sub II LLC, 2020 WL 3642483, at *4 (E.D. Pa. Jul. 6, 2020) (partially admits expert testimony; “The party offering the expert testimony has the burden to show each threshold by a preponderance of the evidence” but “[w]ith a liberal approach toward admitting expert testimony, the rejection of expert testimony is the exception and not the rule”) (cleaned up).

Mannacio v. LG Elecs. USA Inc., 2020 WL 4676285, at *7 (D. Minn. Feb. 11, 2020) (partially admits expert testimony; “The proponent of the expert testimony must prove its admissibility by a preponderance of the evidence” but “[w]hen considering admissibility of expert witness [sic], the Court should resolve doubts regarding the usefulness of an expert’s testimony in favor of admissibility”) (cleaned up).

Marchlewicz v. Bros. Xpress, Inc., 2020 WL 7319550, at *2-3 (W.D. Tex. Dec. 10, 2020) (partially admits expert testimony; “The proponent need not prove that the expert’s testimony is correct, but she must prove by a preponderance of the evidence that the testimony is reliable” but “the rejection of expert testimony is the exception rather than the rule”) (cleaned up).

Mason Dixon Contracting Inc. v. Allied Prop. & Cas. Ins. Co., 2020 WL 5995664, at *5 (M.D. Fla. Jul. 31, 2020) (admits expert testimony; “The party offering the expert opinion bears the burden of establishing, by a preponderance of the evidence, the expert’s qualification, reliability, and helpfulness” but “[a]ccording to Rule 702’s Advisory Committee Notes on the 2000 Amendments, since Daubert was decided, the rejection of expert testimony is the exception rather than the rule”) (cleaned up).

McBride v. Petulla, 2020 WL 1032535, at *2 (W.D. Pa. Mar. 3, 2020) (admits expert testimony; “The party offering the expert must prove each of these requirements by a preponderance of the evidence” but “[e]xclusion of expert testimony is the exception rather than the rule”).

Meade v. Ethicon, Inc., 2020 WL 6395814, at *2 (E.D. Ark. Nov. 2, 2020) (partially admits expert testimony; Rule 702 “is clearly one of admissibility rather than exclusion” but “[t]he proponent of expert testimony has the burden of establishing by a preponderance of the evidence the admissibility of the expert’s testimony”).
Medical Soc’y of N.Y v. UnitedHealth Group, Inc., 2020 WL 1489800, at *2 (S.D.N.Y. Mar. 26, 2020) (admits expert testimony; “The proponent of expert testimony has the burden of establishing by a preponderance of the evidence that the admissibility requirements of Rule 702 are satisfied” but “it is nonetheless a well-accepted principle that Rule 702 embodies a liberal standard of admissibility for expert opinions”) (cleaned up).

Mitchell v. Michael Weinig, Inc., 2020 WL 5798043, at *20 (S.D. Ohio Sep. 29, 2020) (admits expert testimony; “The burden is on the party proffering the expert report and testimony to demonstrate by a preponderance of proof that the opinions of their experts are admissible” but “any doubts should be resolved in favor of admissibility”) (cleaned up).

Mitsubishi Tanabe Pharma Corp. v. Sandoz Inc., 2020 WL 3169372, at *2 (D.N.J. Jun. 15, 2020) (partially admits expert testimony; “The party offering the expert testimony bears the burden of establishing the existence of each matter by a preponderance of the evidence” but “Rule 702, however, has a liberal policy of admissibility”) (cleaned up).

Monroe v. Freight All Kinds, Inc., 2020 WL 6588352, at * (W.D. Mo. Nov. 10, 2020) (partially admits expert testimony; “The proponent of the expert testimony must prove its admissibility by a preponderance of the evidence” but “the Eighth Circuit has held that expert testimony should be liberally admitted”) (cleaned up).

NAACP v. City of Myrtle Beach, 2020 WL 7054437, at *1-2 (D.S.C. Dec. 1, 2020) (admits expert testimony; “the proponent has the burden of establishing that the pertinent admissibility requirements are met by a preponderance of the evidence” but “Rule 702 was intended to liberalize the introduction of relevant expert evidence”) (cleaned up).

Packard v. City of New York, 2020 WL 1479016, at *1, 3 (S.D.N.Y. Mar. 25, 2020) (partially admits expert testimony at summary judgment; “The proponent of expert testimony has the burden of establishing by a preponderance of the evidence that the admissibility of Rule 702 are satisfied” but “[t]he liberal thrust of the Federal Rules of Evidence and their general approach of relaxing the traditional barriers to opinion testimony counsels in favor of admissibility”).

Pitlyk v. Ethicon Inc., 2020 WL 8224837, at *2 (E.D. Mo. Aug. 12, 2020) (admits expert testimony; ) (“The proponent of expert testimony must prove its admissibility by a preponderance of the evidence” but “the Eighth Circuit has held that expert testimony should be liberally admitted”) (cleaned up).

Pitlyk v. Ethicon Inc., 478 F. Supp. 3d 784, 786-87 (E.D. Mo. 2020) (admits expert testimony; “The proponent of expert testimony must prove its admissibility by a preponderance of the evidence” but “the Eighth Circuit has held that expert testimony should be liberally admitted”) (cleaned up).

Rawers v. United States, 2020 WL 5658093, at *8-9 (D.N.M. Sep. 23, 2020) (admits expert testimony; “The proponent of expert testimony has the burden of establishing by a preponderance of the evidence that the pertinent admissibility requirements are met” but “Courts should, under the Federal Rules of Evidence, liberally admit expert testimony”).

Refrig. Supplies Inc. v. Acadia Ins. Co., 2020 WL 7397002, at *3 (E.D. Mo. Dec. 17, 2020) (admits expert testimony; “the party offering the expert testimony must show by a preponderance of the evidence both that the expert is qualified to render the opinion and that the methodology underlying his conclusions is scientifically valid” but “[t]he rule is clearly one of admissibility rather than exclusion”).


Trice v. Napoli Shkolnik PLLC, 2020 WL 4816377, at *10-11 (D. Minn. Aug. 19, 2020) (partially admits expert testimony; “The proponent of the expert testimony bears the burden of showing by a preponderance of the evidence that the testimony is admissible” but “[r]ejection of expert testimony is the exception rather than the rule”) (cleaned up).

United States v. Begay, 497 F. Supp. 3d 1025, 1056 (D.N.M. 2020) (partially admits expert testimony; “The proponent of the expert testimony has the burden of establishing by a preponderance of the evidence that the pertinent admissibility requirements are met” but “Courts should, under the Federal Rules of Evidence, liberally admit expert testimony”).

UPMC v. CBIZ, Inc., 2020 WL 2736691, at *3 (W.D. Pa. May 26, 2020) (admits expert testimony; “The party offering the expert must prove each of these requirements by a preponderance of the evidence” but “[e]xclusion of expert testimony is the exception rather than the rule”) (cleaned up).

Washam v. BNSF Ry. Co., 2020 WL 5880133 (E.D. Ark. Oct. 2, 2020) (partially admits expert testimony; “The rule is clearly one of admissibility rather than exclusion” but “[t]he proponent of the expert testimony has the burden of establishing by a preponderance of the evidence the admissibility of the expert’s testimony”) (cleaned up).

Watkins v. Lawrence Cnty., 2020 WL 2544469, at *1 (E.D. Ark. May 19, 2020) (admits expert testimony; Rule 702 “clearly is one of admissibility rather than exclusion” but “[t]he proponent of the expert testimony has the burden of establishing by a preponderance of the evidence the admissibility of the expert’s testimony”) (cleaned up).

Wegmann v. Ethicon Inc., 2020 WL 5814475, at *4 (E.D. Mo. Sep. 30, 2020) (partially admits expert testimony; “the party offering the expert testimony must show by a preponderance of the evidence both that the expert is qualified to render the opinion and that the methodology underlying his conclusions is scientifically sound” but “the Eighth Circuit has held that expert testimony should be liberally admitted”) (cleaned up).
Wegmann v. Ethicon Inc., 2020 WL 5960923, at *1 (E.D. Mo. Oct. 8, 2020) (partially admits expert testimony; “the party offering the expert testimony must show by a preponderance of the evidence both that the expert is qualified to render the opinion and that the methodology underlying his conclusions is scientifically sound” but “the Eighth Circuit has held that expert testimony should be liberally admitted”) (cleaned up).

Wichterman v. City of Phila., 2020 WL 7488645 (E.D. Pa. Dec. 21, 2020) (partially admits expert testimony; “Rule 702 has a liberal policy of admissibility. As such, the rejection of expert testimony is the exception and not the rule” but “[t]he party offering the expert must establish each requirement by a preponderance of the evidence”) (cleaned up).