

Coalition in Support of the Daubert Standard

Ensuring the credibility of evidence introduced in courtrooms is an essential element of a fair and just legal system. By following the Daubert standard, U.S. Federal court judges are given significant authority to scrutinize the admissibility of expert testimony. This expanded judicial authority decreases the probability of “junk science” being presented to the jury and affecting the outcome of a trial.

Brief History:

Throughout the majority of the 20th century, U.S. federal courts relied exclusively on the 1923 case *Frye v U.S.* for decisions regarding the admissibility of expert testimony. In what became known as the Frye standard, the ruling required that expert testimony be based on science that has gained “general acceptance” in the relevant field.¹ However, the 1993 U.S. Supreme Court decision in *Daubert v Merrell Dow Pharmaceutical* established a new “Daubert standard” to replace Frye. This new standard encouraged judges to examine the validity and methodology of the underlying science more rigorously. In particular, the court opinion recommended four straightforward guidelines for judges to consider when examining the merits of the testimony².

- 1. Whether the expert’s technique or theory can be or has been tested**
- 2. Whether the theory has been subject to peer review and publication.**
- 3. The known or potential rate of error of the technique or theory.**
- 4. Whether the theory or technique has been generally accepted in the relevant field.**

Where Arizona Stands:

While the Daubert standard is firmly established in federal courts, it has not been fully adopted at the state level. Thirty seven states use a standard that reflects some or all of Daubert’s elements, but Arizona continues to use a weakened version of the Frye standard. Therefore, Arizona leaves the door open to lawsuits by continuing to implement the Frye standard. Companies operating in Arizona incur the additional costs of defending lawsuits that would have no merit in neighboring states that have adopted some form of the Daubert standard. Switching to the Daubert standard

¹ *Frye v United States* 293 F. 1013 (D.C.. Cir 1923)

² *Daubert v. Merrell Dow Pharmaceuticals*, 509 U.S. 579 (1993)

could immediately improve Arizona's business environment by allowing firms to spend less money on legal defense and insurance and more money on jobs and investment.

Our Position:

The legislature has the ability and legal authority to improve both the quality of the legal system and the overall attractiveness of the business environment in Arizona by switching from Frye to Daubert. During a time of 9.3% unemployment in the state, adoption of the Daubert standard would be a positive step toward an improved business climate that will allow companies to succeed, grow, and generate the jobs that are desperately needed.

Coalition Members:

American Insurance Association
Arizona Academy of Family Physicians
Arizona Association of Health Plans
Arizona Hospital and Healthcare Association
Arizona Chamber of Commerce and Industry
Arizona College of Emergency Physicians
Arizona Manufacturers Council
Arizona Medical Association
Arizona Osteopathic Medical Association
Cancer Treatment Centers of America at Western Regional Medical Center
Central Arizona Chamber Coalition
 Prescott Chamber of Commerce
 Prescott Valley Chamber of Commerce
 Chino Valley Chamber of Commerce
 Tri-City Hispanic Chamber of Commerce
 Camp Verde Chamber of Commerce
 Cottonwood Chamber of Commerce
 Sedona Chamber of Commerce
East Valley Chambers of Commerce Alliance
 Ahwatukee Foothills Chamber of Commerce
 Apache Junction Chamber of Commerce
 Chandler Chamber of Commerce
 Gilbert Chamber of Commerce
 Mesa Chamber of Commerce
 Queen Creek Chamber of Commerce
 Scottsdale Area Chamber of Commerce
 Tempe Chamber of Commerce
Flagstaff Chamber of Commerce
Greater Phoenix Chamber of Commerce
Intel

Mayo Clinic Arizona
National Federation of Independent Business
Pharmaceutical Research and Manufacturers of America
Scottsdale Healthcare
Services Group of America
Tucson Metropolitan Chamber of Commerce
Western States Petroleum Association (WSPA)