

Rule 702: "If scientific, technical, or other specialized knowledge will assist the trier of fact to understand the evidence or to determine a fact in issue, a witness qualified as an expert by knowledge, skill, experience, training, or education, may testify thereto in the form of an opinion or otherwise."

Daubert: Scientific knowledge that will assist the trier of fact (whether the testimony's underlying reasoning or methodology is scientifically valid and properly can be applied to the facts at issue). Some criteria (not all mutually exclusive or collectively exhaustive):

1. Whether the theory or technique in question can be (and has been) tested (Karl Popper's principle of *falsifiability*).
2. Has the scientific theory or technique been subjected to peer review and publication?
3. What is the known or potential error rate?
4. What is the expert's qualifications and stature in the scientific community?
5. Can the technique and its results be explained with sufficient clarity and simplicity so that the court and the jury can understand its plain meaning?

Questions Raised by the Daubert Decision:

1. What is *Scientific Knowledge*?
2. Does Scientific Knowledge have a *Special Status*?
3. Can there be *Certainty* in Science?
4. What is *Scientific Consensus* and who is qualified to state what it is?

Rule 702 (Post Daubert): "If scientific, technical, or other specialized knowledge will assist the trier of fact to understand the evidence or to determine a fact in issue, a witness qualified as an expert by knowledge, skill, experience, training, or education, may testify thereto in the form of an opinion or otherwise, **if (1) the testimony is based upon sufficient facts or data, (2) the testimony is the product of reliable principles and methods, and (3) the witness has applied the principles and methods reliably to the facts of the case.**"