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Handling Daubert Challenges for Medical Device and Toxic Exposure Causation Experts

A Guide for the Attorney Retaining or Challenging a Causation Expert

DRAFT FOR DISCUSSION PURPOSES ONLY

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Introduction

In ***medical-device cases***, doctors get wholly or partially excluded on Daubert challenges ***about half the time***. In toxicology and exposure cases, it happens nearly ***two-thirds of the time***.

This guide is intended to help you handle both sides of a Daubert challenge, whether you are seeking to exclude an opposing expert or trying to make sure your own expert can testify at trial.

This guide is not another summary of Daubert case law or an abstract discussion of Rule 702. There are plenty of those. Instead, we are focused on a different question: how are federal judges, in real cases and real rulings, deciding whether or not to exclude physician expert testimony.

What separates the expert opinions that survive a Daubert challenge from those that get wholly or partially excluded? We analyzed dozens of rulings and distilled our results down to a series of practical dos and don'ts based on how federal judges ruled, and the factors that they considered.

The Numbers

We reviewed federal Daubert/FRE 702 rulings against two physician disciplines: doctors testifying in medical-device products-liability cases (hip and knee implants, IUDs, breast implants, surgical mesh) and doctors testifying on general or specific causation in toxic and environmental exposure cases (asbestos, benzene, lead, PFOA and similar chemical exposures).

Outcome	Medical Device (N=13)	Toxic/Environmental Exposure (N=35)	General Personal-Injury Baseline (N=59)
Admitted in full	6 (46%)	13 (37%)	33 (56%)
Partially excluded	2 (15%)	9 (26%)	14 (24%)
Excluded entirely	5 (38%)	13 (37%)	12 (20%)

Both device and toxic-exposure causation testimony gets excluded at roughly double the general personal-injury baseline rate. Based on our review of the rulings, it does not look like "credentials" explains the difference in rates of exclusion. The most important factor is whether the expert report shows "checkable work". (Medical-device figure is a real but modest sample, 13 challenges — directional, not definitive.)

If You're Retaining This Expert

Ask the checkable-work question before the report is finalized, not in response to a Daubert motion: what is this opinion's causation conclusion grounded in, and can a court independently verify that grounding — a study, an exam, a validated model — or does it rest on the expert's say-so?

Advice	Explanation
If your expert's differential diagnosis is asserted rather than shown, treat that as a pre-filing fix	Ask your expert to walk you through every alternative cause considered and why each was ruled out — if they can't produce that on the spot, the ruling-in/ruling-out work genuinely hasn't been done, and it needs to happen before the report is finalized, not after a Daubert motion forces the issue. The ruling-in/ruling-out has to be visible on the page itself; a court and opposing counsel both need to see it, not just take the expert's word for it.
If their dose calculation is assumption-based rather than measurement-based, get it validated against actual exposure data before the report goes out	Ask directly: is this number built from measured exposure data, or from an assumption about what the exposure probably was? Calculations that were purely assumption-based were a recurring vulnerability in the toxic-exposure rulings we reviewed. If measured data exists and your expert hasn't used it, that's a fixable problem now and a much harder one after the report is filed.
For toxic exposure cases specifically, confirm your expert's causation analysis is their own — not borrowed wholesale from a co-expert whose own opinion might be independently challenged	A chain-reliance failure risks sinking both opinions together — if your expert's causation opinion rests on another expert's foundation, and that foundation gets successfully challenged, your expert, may go down with it even though nobody attacked your expert's own work directly. Ask your expert plainly whether any piece of their analysis depends on someone else's finding, and if so, whether they've independently verified it or are simply adopting it.
For device cases, confirm physical examination happened where the device is available	Courts in this corpus treat physical examination as one of the strongest signals of a reliable opinion — an expert who examined the explanted device and tissue directly is on much firmer ground than one relying on a surgeon's notes or records review alone. If examination hasn't happened and the device is available, get it done before the report is finalized; if the device genuinely isn't available, make sure the report says so explicitly and explains what the expert relied on instead.

If You're Challenging the Opposing Expert

Don't start with credentials — in this corpus, credential challenges rarely carry the motion on their own. Start with the checkable-work question: can the opinion's causation conclusion be traced to something external and verifiable, or does it terminate in the expert's own say-so?

Problem to look for	Explanation	Example from this corpus
For device causation, the gap between the data cited and the conclusion reached	Did the expert actually examine the device or tissue, or is the opinion built on records review alone?	In one metal-on-metal hip implant ruling, five experts evaluated the same device — the ones who physically examined the explanted device and tissue were admitted; the expert who relied on the surgeon's observations instead, leaving a gap between the data and his causation opinion, was excluded on exactly that basis.
For toxic exposure, an "every exposure counts" theory	This is very strong challenge when it appears, because courts reject the theory categorically rather than case by case.	One expert's opinion was excluded from specific causation on exactly this theory — he was left able to testify only on general causation and diagnosis.
The dose calculation	Is it validated against measured exposure data, or extrapolated from assumptions never checked against the facts of this case?	One benzene-exposure opinion was excluded because its dose calculation assumed lethal gasoline-vapor levels that were never validated against actual measured exposure data from the gas stations at issue.
The foundation	Does the causation opinion lean on another expert's finding that is itself vulnerable or already challenged, rather than standing on its own independent analysis?	Two experts in the same case were excluded together because their causation opinions relied entirely on a third expert's asbestos-contamination finding that had itself already been excluded.
The credentials match	Is this doctor's specific expertise matched to the specific causation question, or just to the general condition at issue?	A part-time internist was excluded from testifying on autoimmune-disease causation — his report had no methodology, no literature review, and no analysis beyond a summary of the plaintiff's medical history. A general medical license doesn't transfer to a narrow causation question outside a doctor's regular practice.

Each of these appeared in rulings where courts excluded physician testimony in whole or in part, and they recur more often in this corpus than generalized attacks on qualifications alone.

Prepared by LawSnap Research from a live, coded federal Daubert/FRE 702 corpus. Figures current as of 2026-09-01, corrected 2026-09-03. A companion guide covering this same data, written directly for the testifying expert, is available separately.