



FOR IMMEDIATE RELEASE

Contact: Emily Kelchen, NJCJI Dir. of Pub. Affairs
609-392-6557 or ekelchen@civiljusticenj.org

Business Community Asks Court to Update Evidence Rules

This morning, the New Jersey Civil Justice Institute urged the New Jersey Supreme Court to update the state's out of date rules on the admissibility of expert opinion testimony during the court's current rulemaking cycle.

"The New Jersey courts have been considering this issue for over fifteen years now. Meanwhile the vast majority of states have reached consensus," said Marcus Rayner, the President of the New Jersey Civil Justice Institute. "It is time to bring New Jersey's law into the mainstream, and ensure that only sound science reaches juries in New Jersey."

New Jersey was one of the first jurisdictions to recognize the increasing importance of expert testimony in modern litigation, one of the first to stress the importance of judicial gate keeping, and one of the first to adopt a more structured multi-factor test for examining the validity of expert testimony. Unfortunately, New Jersey can no longer claim it is on the cutting edge when it comes to ensuring bad science is barred from the courtroom.

Our rules regarding the admissibility and review of expert testimony have remained unchanged since 1991. In this same period the Federal Rules of Evidence, the Uniform Rules of Evidence, numerous state evidence rules, and our own jurisprudence have all changed to reflect the increased importance and use of expert testimony.

Prof. David Bernstein of George Mason University, one of the nation's foremost experts on expert testimony, testified before the court on NJCJI's behalf this morning. His research reveals that as more and more courts apply Federal Rule 702 rather than its more nebulous predecessors, the case law becomes more consistent and predictable. These are both qualities that the business community values and would like to see more of in New Jersey decisions.

David Kott of McCarter & English testified on behalf of the New Jersey Business and Industry Association in support of a rule change. He stressed that not only is New Jersey falling behind other states on this issue, our own case law has become confused, allowing judges to apply basically whatever standard they think is appropriate rather than following any sort of general guidelines.

NJCJI is urging the court to amend the New Jersey rule to mirror Federal Rule of Evidence 702.

###