

“Forensic” Science



Source: LegalIProd <https://www.legalprod.com/en/jurimetry/>

Science that can be used
in the legal system,
ultimately in court

Hon. (ret) Donald E. Shelton

Federal Rules for Admissibility of Forensic Science Evidence

*The times they are a changin' -
especially for AI!*

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Daubert Hearing

“the trial judge must ensure that any and all scientific testimony or evidence admitted is not only relevant, but reliable”



Source: <https://www.rbisenberg.com/>

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The Daubert Criteria

Daubert Factors

- (1) Testing (“falsifiability”)
- (2) Peer review & publication
- (3) Known or potential error rate
- (4) Standards controlling use of technique
- (5) General acceptance (from *Frye* test)

Testing
Error Rates
Peer Review
Standards
General Acceptance

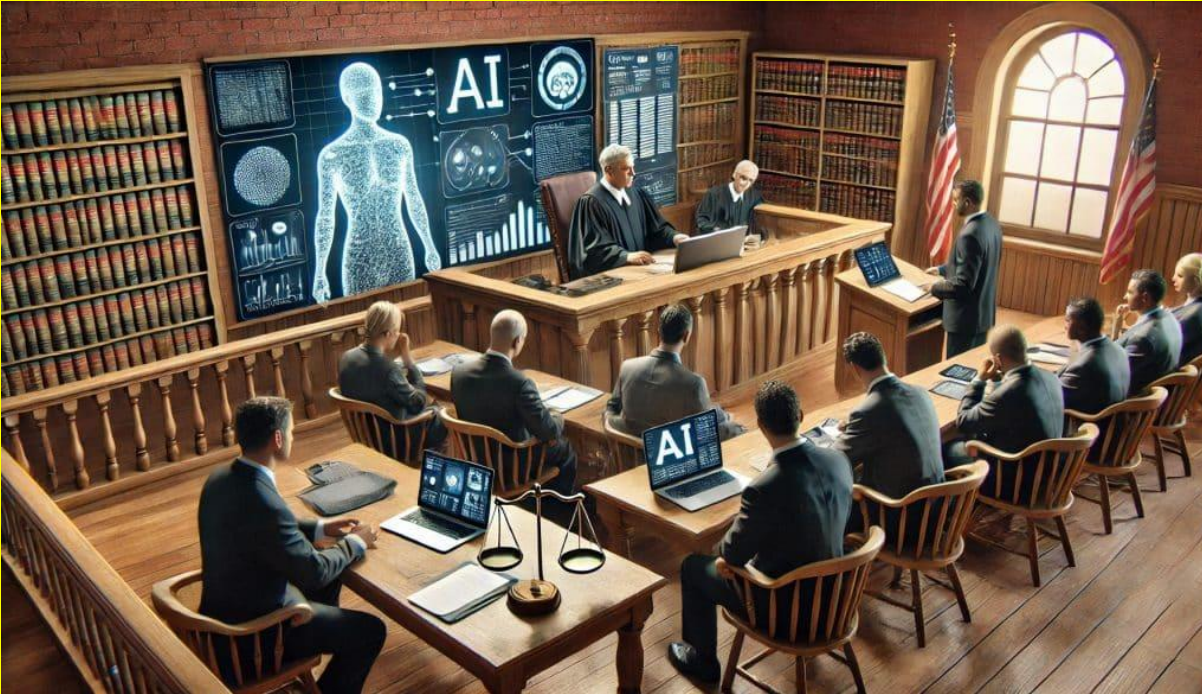
FRE 702 Testimony by Expert Witnesses

was changed effective December 2023:

A witness who is qualified as an expert by knowledge, skill, experience, training, or education may testify in the form of an opinion or otherwise if the proponent has demonstrated to the court that it is more likely than not that:

- a) the expert's scientific, technical, or other specialized knowledge will help the trier of fact to understand the evidence or to determine a fact in issue;*
- b) the testimony is based on sufficient facts or data;*
- c) the testimony is the product of reliable principles and methods; and*
- d) the expert has reliably applied expert's opinion reflects a reliable application of the principles and methods to the facts of the case.*

What About AI?



Source: <https://aigptjournal.com/>



Source: <https://www.memecreator.org/static/images/memes/4052229.jpg>

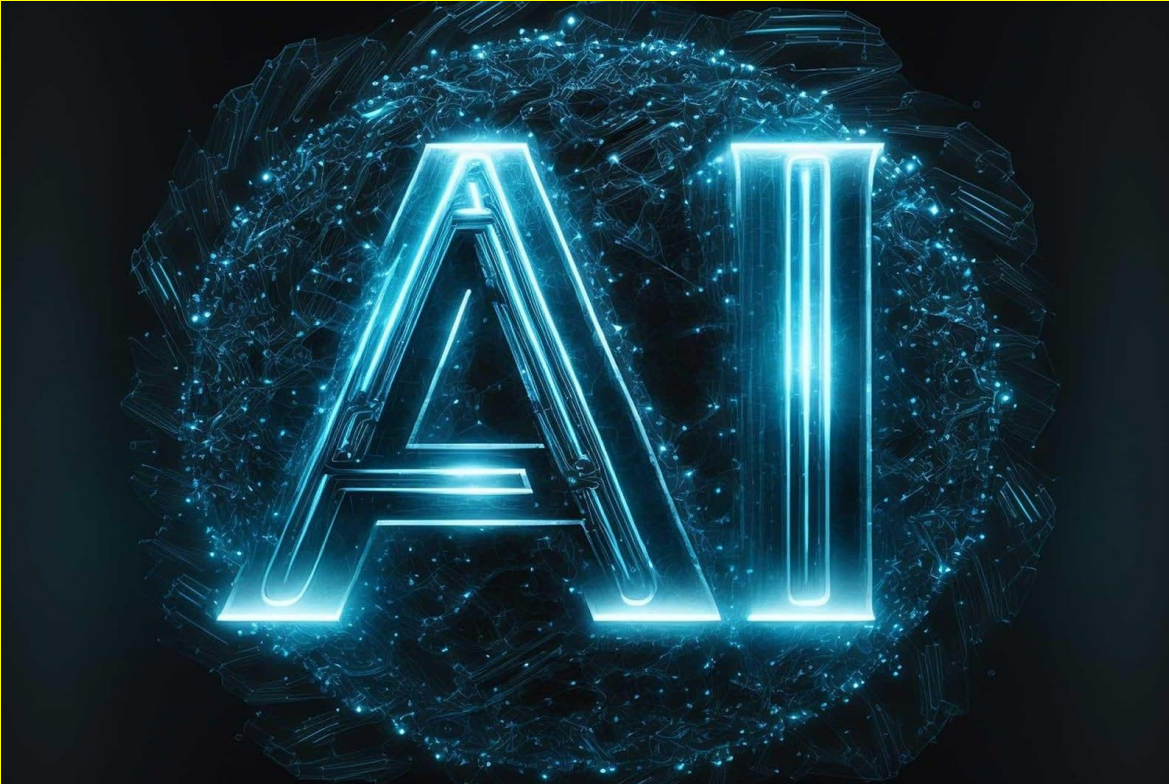
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New FRE 707 for AI

Rule 707. Machine-Generated Evidence

When machine-generated evidence is offered without an expert witness and would be subject to Rule 702 if testified to by a witness, **the court may admit the evidence only if it satisfies the requirements of Rule 702 (a)-(d). This rule does not apply to the output of basic scientific instruments.**

Can AI Meet Daubert?



Daubert:

Testing
Error Rates
Peer Review
Standards
General Acceptance

Source: <https://online.uc.edu/blog/what-is-artificial-intelligence/>

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<https://sites.duke.edu/tech/2024/11/23/ai-in-law-automated-lawyers-have-arrived/>



Source: <https://aiplusinfo.medium.com/ai-avatar-in-court-judges-response-disappoints-54281676c5e1>

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