

NY State-Federal Judicial Council - CLE Program

ADMISSIBILITY OF EXPERT TESTIMONY IN STATE AND FEDERAL COURTS

State courts: Frye standard

Frye v. U.S., 293 F. 1013 (D.C. Cir. 1923)

Cornell v. 360 W. 51st St. Realty LLC, 22 N.Y.3d 762 (2014) (Read, J.)

Sean R. v. BMW of No. America, LLC, 26 N.Y.3d 801 (2016) (Pigott, J.)

Parker v. Mobil Oil Corp., 7 N.Y.3d 434 (2006) (Ciparick, J.)

Styles v. General Motors Corp., 20 A.D.3d 338 (1st Dep't 2005)

NY PJI 1:90 General Instruction – Expert Witnesses, and commentary

Federal courts: Daubert standard

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

General Electric v. Joiner, 522 U.S. 136 (1997)

Kumho Tire Co. v. Carmichael, 526 U.S. 137 (1999)

FRE 702 and Advisory Committee Notes

In re Bextra and Celebrex - Decisions following joint Frye/Daubert Hearing

In re Bextra and Celebrex Marketing Sales Practices and Product Liability Litigation, 524 F. Supp.2d 1166 (N.D. Cal. 2007)

In re Bextra & Celebrex, 2008 N.Y. Misc. LEXIS 720 (Sup. Ct. New York County, Jan. 7, 2008)

In re Pfizer Inc. Securities Litigation, 2010 WL 1047618 (S.D.N.Y. 2010)