

The Fall of a Faulty Expert: Lessons from *Monte v. Sherwin-Williams*

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In a negligence and failure to warn case, a Florida district court granted the defendant Sherwin-Williams's motion to exclude the testimony of the plaintiff's expert after determining that his causation opinion was unreliable under *Daubert*. *Monte v. Sherwin-Williams Dev. Corp.*, 2025 WL 90123 (M.D. Fla. Jan. 14, 2025).

In *Monte*, the plaintiff alleged that he was injured when he fell while navigating a ramp in his wheelchair outside a Sherwin-Williams store in Orlando, Florida. *Id.* at *1. In support of his claims, he retained an expert who opined that his fall caused an infection in his left elbow. *Id.* Defendant Sherwin-Williams moved to exclude the causation testimony of the plaintiff's expert, arguing that (1) he was not qualified to opine on causation, (2) his conclusions were contradicted by record evidence, and (3) his opinion was "not predicated on any scientific testing or methodology." *Id.* at *2. The court agreed, finding that the expert's opinion did not meet the reliability or helpfulness requirements under Fed. R. Evid. 702.

The district court excluded the plaintiff's expert for the following reasons:

TEMPORAL PROXIMITY ALONE DOES NOT PROVE CAUSATION

The opinion of the plaintiff's expert rested entirely "on the fact that [plaintiff's] infection manifested shortly after his accident." *Id.* at *2. Indeed, the expert testified at his deposition that because the plaintiff had no elbow infections before the fall but then he developed one shortly afterward, the accident must have been the cause. *Id.* The court rejected this reasoning, reiterating that temporal proximity alone does not establish a causal relationship: "By itself, temporal proximity is generally not a reliable indicator of a causal relationship." *Id.* (internal quotation marks omitted, alteration in original). As a result, "in the absence of a reliable basis, [the expert's] causation opinion regarding the infection of Mr. Monte's left elbow must be excluded." *Id.*

LACK OF A RELIABLE METHODOLOGY

The district court also explained that the expert's testimony was unreliable because he failed to conduct a proper differential diagnosis. For context, a differential diagnosis occurs when a medical professional creates a list of possible causes for an injury and systematically rules out each possible cause until one probable cause is left.^[1] The district court noted that for a differential diagnosis to be reliable, "it must at least consider other factors that could have been the sole cause of the plaintiff's injury and the expert must provide a reasonable explanation as to

why he or she has concluded that any alternative cause suggested by the defense was not the sole cause.” *Id.* (internal quotation marks omitted). But the plaintiff’s expert “did not claim to have considered other potential sources” of the plaintiff’s infection and even conceded that the infection could have been caused by bursitis—an alternative cause. *Id.* The district court thus held that “even if [the plaintiff’s expert’s] causation opinion was the result of a differential diagnosis, he has not, based on the record before the court, demonstrated that he deployed that methodology reliably in this case.” *Id.* at *3 (citation omitted).

OPINION WAS NOT HELPFUL TO THE JURY

The district court also noted that the expert’s opinion was unhelpful to the jury and should be excluded on that basis as well. Specifically, the district court held that “[t]he notion of temporal proximity is not beyond the ken of the average lay person,” and therefore, the causation opinion of the plaintiff’s expert “would not be helpful to the trier of fact.” *Id.* The district court further noted the Eleventh Circuit’s preference “to leave the question of causation in the hands of the jury, where, as here, an expert’s opinion as to causation is based on temporal proximity alone.” *Id.* (citation omitted).

Key Takeaway

The *Monte* ruling reinforces three key points for challenging expert causation opinions in depositions. *First*, temporal proximity alone is insufficient to establish causation—courts require scientific support beyond a mere timeline. *Second*, a proper differential diagnosis or etiology must actively rule out alternative causes rather than assume causation. *Third*, expert testimony must be necessary and not merely state what a layperson could infer. Given that federal courts have increased scrutiny of expert testimony under the Rule 702 amendments, eliciting admissions on these potential deficiencies could be pivotal in securing an expert’s exclusion.

[1] Some courts refer to this process as a differential etiology, while others treat differential etiologies and differential diagnoses as interchangeable or as components of a broader differential diagnosis framework.

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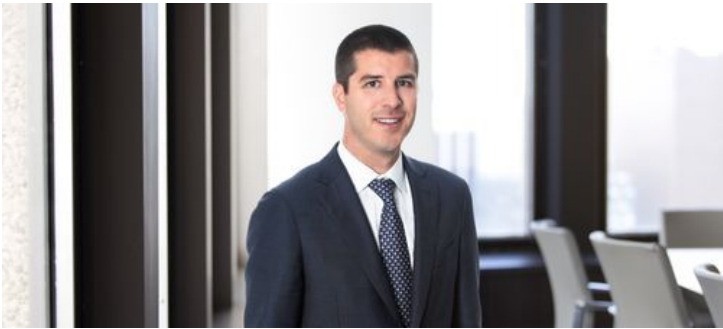
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