

ALSTON & BIRD

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Toxic (Re)Tort

First Edition



Welcome to the inaugural edition of the *Toxic (Re)Tort*, your go-to resource for staying informed in the toxic tort space. As the regulatory and litigation landscape continues to evolve, staying informed is not just a strategic advantage—it's a business imperative. Through the Toxic (Re)Tort Tracker and our quarterly publication, Alston & Bird remains committed to equipping companies with the insights and tools needed to navigate this complex terrain with confidence.

We launched this publication based on decades of experience litigating toxic tort cases, which have consistently demonstrated that coordination and collaboration are essential to successful outcomes. Our cohesive team structure reflects and reinforces the core values of the firm—most notably, our commitment to providing constant, proactive attention to our clients' needs. These guiding principles have shaped a distinct work environment that empowers us to deliver the highest level of service and advocacy. Companies need to be aware of changes in regulations, litigation trends, and case results to ensure they are prepared for these bet-the-company cases.

We will break down recent developments in:

- Rulemakings (State & Federal)
- Key Court Opinions (State & Federal)
- Verdicts & Settlements
- Science & News
- Expert Decisions

We hope this resource empowers you to make informed decisions and stay ahead in the complex world of toxic torts.

Thank you for allowing us to be your trusted resource, and happy reading!

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To learn more about Alston & Bird's Mass Torts & Toxic Torts Team, click [here](#).

The *Toxic (Re)Tort* is published by Alston & Bird LLP to provide a summary of significant developments to our clients and friends. It is intended to be informational and does not constitute legal advice on any specific situation. This material may also be considered attorney advertising under court rules of certain jurisdictions.

Rulemakings (State & Federal)

ALABAMA

August 2025: Adopted new amendments to the Alabama Department of Environmental Management's (ADEM) Air Pollution Control Program regulations (Division 335-3). The revisions adopt the EPA's changes to federal New Source Performance Standards and National Emissions Standards for Hazardous Air Pollutants, remove affirmative defense provisions to match the EPA's removal of these provisions from federal regulations, and remove some trigger language related to emissions violations occurring during startup, shutdown, and malfunctions of equipment.

August 2025: Proposed modifications to ADEM's Hazardous Waste Program regulations (Division 335-14) to adopt several codified and revised federal rules promulgated by the EPA. The rules include a list of wastes generated from processes related to coal combustion and fossil fuels that are exempt from hazardous waste regulations when disposed alongside other coal combustion wastes, and changes to the definition of "solid waste" to bring state regulations in line with federal regulations. The comment deadline closed October 7, 2025.

ILLINOIS

August 2025: The governor signed Senate Bill 328 into law, providing that any entity doing business in Illinois consents to general jurisdiction in Illinois for any action alleging injury or illness resulting from exposure to substances defined as "toxic" under the Illinois Uniform Hazardous Substances Act, as long as at least one codefendant is subject to jurisdiction in Illinois under the long-arm statute. Consent to general jurisdiction terminates only upon formal withdrawal from the state.

IOWA

September 2025: The Iowa Environmental Protection Commission proposed ARC 9539C, which would amend Chapter 30 of the Iowa Administrative Code to increase caps for specific air quality fees and add a new Title V annual base fee and a new fee for revisions to asbestos notifications. The deadline for public comments ended on October 20, 2025.

MASSACHUSETTS

September 2025: Amended the Massachusetts Ambient Air Quality Standards (310 CMR 6.00, 7.00) to match increased fine particulate matter and sulfur dioxide National Ambient Air Quality Standards promulgated by the EPA in 2024.

NEW JERSEY

September 2025: Amended N.J.A.C. Chapter 7:1E and repealed Chapter 8.10, expanding the definition "hazardous substance" to include all hazardous substances regulated under the Spill Compensation and Control Act. The goal is automatically roll into the Discharge of Petroleum and Other Hazardous Substances regulations any hazardous substances the EPA adds to the federal statutes listed in N.J.S.A. 58:10-23.11b, with the same procedure for substances removed by the EPA. The amendment adds 263 substances, 262 of them regulated under the Community Right to Know program, along with 172 PFAS chemicals, 159 of them from the updated federal Toxics Release Inventory list. Additional updates include the correction of various CAS numbers and the removal of non-hazardous substances regulated under the Spill Compensation and Control Act such as saran and PVC.

NEW MEXICO

September 2025: Adopted NMAC 20.11.20 (Fugitive Dust Control), which adds language clarifying that asbestos inspectors must be accredited.

OHIO

August 2025: Proposed amendments to several rules under OAC Chapter 3701-3 (Communicable Diseases) that relate to reporting occupational diseases, air- and blood-borne diseases reasonably likely to be transmitted to emergency medical services workers, time to report, reporting to department, and reporting requirements. The amendments specify the reporting requirements for poison control prevention, treatment centers, pharmacies, and pharmacists, as well as other health-related entities.

OREGON

September 2025: Proposed changes to OAR 340-122-0115 of the Hazardous Substance Remedial Action Rules that would update the definition of "hazardous substance" to include any release of source, byproduct, or special nuclear material from a nuclear incident.

TEXAS

July 2025: The Texas Commission on Environmental Quality proposed amendments to Chapter 17 (Control of Air Pollution from Nitrogen Compounds). If adopted, the amendments would change the requirements for major industrial, commercial, or institutional sources of NOX. The proposed revisions establish new emissions standards and exemptions for stationary gas-fired engines using landfill gas, diesel engines, process heaters, natural-gas-fired ovens, and incinerators. The public comment period closed on August 25, 2025.

VERMONT

November 2025: Effective November 4, 2025, Vermont Fire & Building Safety Code Rule 25P022 establishes minimum standards to protect the public from risks of fire, explosion, hazardous materials, dangerous structural conditions, and carbon monoxide poisoning within public buildings. The rule also regulates the removal of asbestos-containing materials and training for persons who remove asbestos-containing materials.

WEST VIRGINIA

July 2025: The West Virginia secretary of state approved amendments to West Virginia Code of Regulations Series 64-45, which establishes procedures and standards for the licensure and training of persons who engage in activities related to lead abatement and for the operation of lead abatement projects. The amendments extend the sunset date, contain technical cleanup, amend portions of the rule to align with current EPA standards, and increase fees for obtaining lead abatement licenses. The amendments were modified in October 2025 following review and comment by the Legislative Rule-Making Review Committee.

WISCONSIN

September 2025: The Department of Natural Resources proposed changes to Board Order DG-01-24 that affects Chapter NR 809 of the Wisconsin Administrative Code. If adopted, the revisions would establish drinking-water standards, referred to as maximum contaminant levels, based on the new federal standards addressing lead and copper in public drinking water, and for certain PFAS, including the contaminant compounds PFOA, PFOS, PFHxS, PFNA, PFBS, and HFPO-DA.

August 2025: Rule CR 24-082, which amends DHS 163.03 (67), 181.03 (10), and 182.03 (10), relating to the definitions of “lead exposure” and “lead poisoning or exposure,” went into effect August 1, 2025. The rule is based on the Centers for Disease Control and Prevention’s blood lead reference value, which was based on the 97.5th percentile of blood lead distribution in U.S. children ages 1–5 years. Any physician, nurse, hospital administrator, director of a blood drawing site, or local health officer who obtains blood samples or orders blood samples to be taken from persons to determine the concentration of lead in the blood may be affected by the rule.

Key Court Opinions (State & Federal)

MISSISSIPPI

July 10, 2025 | *Williams v. BP Exploration & Production Inc.*, No. 24-60095 (5th Cir.).

The Fifth Circuit affirmed a district court’s decision to exclude expert testimony that exposure to benzene and other chemicals released from the *Deepwater Horizon* oil spill caused the plaintiff’s injuries. The district court found that the experts did not consider alternatives that could have caused the plaintiff’s pansinusitis.

MISSOURI

July 11, 2025 | *A.O.A. v. Rennert*, No. 4:11-cv-00044 (E.D. Mo.).

A federal district court judge issued a sweeping order excluding key expert testimony in ongoing lead smelting litigation. The judge agreed with the defendant’s position that the plaintiff’s expert overstated the association between arsenic exposure and neurological development, excluding this and other specific causation findings.

NEW YORK

July 25, 2025 | *Skrzynski v. Akebono Brake Corp.*, 2025 NY Slip Op 04322 (N.Y. App. Div.).

The appellate division affirmed the judgment of the Supreme Court, Erie County awarding money damages following a jury verdict. On general causation, the court found that the combined testimony of the plaintiff’s expert epidemiologist and environmental scientist’s testing of the brakes sufficiently established that asbestos from automotive brakes can cause mesothelioma. On specific causation, the court found that the plaintiff presented sufficient evidence through: (1) scientific testing showing levels of asbestos fibers released during brake work and cleanup activities; (2) the plaintiff’s testimony about his regular presence in the garage during brake jobs; (3) expert testimony establishing that a garage worker’s exposure could be estimated to a corresponding increased risk of developing mesothelioma; and (4) medical testimony that this cumulative exposure was a substantial factor in causing the plaintiff’s mesothelioma.

July 7, 2025 | *McLean v. Ashland LLC*, 2025 NY Slip Op 32489(U) (N.Y. Sup. Ct.).

The New York County Supreme Court issued a consolidated order on motions to dismiss from multiple defendants. The court denied motions to dismiss based on causation, finding that the plaintiff’s expert raised a triable issue of fact on whether benzene was the cause of the plaintiff’s cancer. The court also found that there was a triable issue of fact on the successor liability of DAP Products following its acquisition of DAP Inc. based on the purchase agreement between the companies, which included the purchase of the product line alleged to have caused the benzene exposure.

WASHINGTON

August 25, 2025 | *Little v. Hardie-Tynes Co. Inc.*, No. 86318-5-1 (Wash. Ct. App.).

The Court of Appeals of Washington reversed a lower court decision in favor of the plaintiffs and remanded for judgment in favor of the defendant under the state’s product line doctrine. Under that doctrine, a successor company must hold itself out as the continuation of the predecessor company by continuing to produce the same product line. In this case, the defendant purchased the predecessor company to liquidate it and did not continue manufacturing the alleged asbestos-containing product line, which included draft blowers and pumps, at issue in the case.

Verdicts & Settlements

SEPTEMBER 2025

September 18, 2025 | *LaPointe v. American Art Clay Co.*, No. 2181CV06597 (Mass. Super. Ct.).

A Massachusetts jury awarded \$23 million in compensatory damages and \$60 million in punitive damages to a plaintiff who claimed that his wife’s death from mesothelioma was caused by exposure to asbestos in talc-based clay products while working at a ceramics studio from the 1950s to the 1970s.

September 17, 2025 | *United States v. Illinois*, No. 3:25-cv-08122 (N.D. Ill.).

A federal judge in Illinois entered a consent decree in which the State of Illinois agreed to pay \$10.5 million to clean up radioactive contamination at a Superfund site. The agreement resolves the state’s liability under CERCLA in exchange for offering support services for the EPA’s cleanup efforts.

September 11, 2025 | *Beach v. 3M Co.*, No. 24STCV28404 (Cal. Super. Ct.).

A California jury awarded \$29 million to a couple alleging that the husband, a former dentist, developed mesothelioma after being exposed to asbestos in joint compound, wall texture, ceiling texture, and periodontal dressings. Nearly two dozen

entities were listed on the verdict form, but the jury only apportioned fault to the two defendants at trial, Kaiser Gypsum Company Inc. and Pulpdent Corporation. The jury also found that the dental supply company acted with malice, oppression, or fraud.

September 9, 2025 | *Feindt v. United States*, No. 1:22-cv-00397 (D. Haw.).

A federal judge in Hawaii entered a final judgment of approximately \$600,000 for the claims of 17 bellwether plaintiffs (6 adults and 11 children) who alleged injuries from drinking water polluted with PFAS after a jet fuel spill at the Pearl Harbor Naval Base. The plaintiffs brought claims under the Federal Tort Claims Act against the United States, and the government stipulated to liability.

September 5, 2025 | *Long v. 3M Co.*, No. 23CV27457 (Or. Cir. Ct.).

An Oregon jury awarded \$33 million in compensatory damages to a 71-year-old former shipyard laborer who alleged that he developed mesothelioma after years of working with asbestos-containing gaskets and packaging sold by John Crane. The jury attributed 30% of the liability to John Crane and found that the conduct of three nonparties was also a substantial factor in causing the plaintiff’s disease. The jury found that there was insufficient evidence for punitive damages. The first trial of the case ended in a mistrial after four days of jury deliberation.

AUGUST 2025

August 28, 2025 | *Weaver v. Vanderbilt Minerals LLC*, No. EFCV-22-164221 (N.Y. Sup. Ct.).

After a four-week trial, a New York jury awarded \$4.5 million in compensatory damages and \$7.75 million in punitive damages to a plaintiff who allegedly developed mesothelioma from environmental exposure to asbestos while living in the vicinity of a Vanderbilt Minerals talc mine in upstate New York.

August 20, 2025 | *United States v. Bristol-Myers Squibb Co.*, No. 5:25-cv-00904 (N.D.N.Y.).

A federal judge in New York entered a consent decree in which 15 companies accused of contaminating a New York Superfund site with PCBs agreed to pay \$12.7 million to the United States under CERCLA for incurred remediation costs.

JULY 2025

July 29, 2025 | [Lovell v. Johnson & Johnson](#), No. 21-2086 (Mass. Super. Ct.).

A Massachusetts jury awarded \$42.6 million in compensatory damages to a couple who claimed that asbestos in Johnson & Johnson's baby powder caused the husband to develop mesothelioma. The plaintiffs had been married for 45 years and alleged that they used the talc product for decades on themselves and their four children.

July 24, 2025 | [Schoepke v. EIDP](#), No. N23C-09-059 (Del. Super. Ct.).

A Delaware jury awarded \$9 million in compensatory damages to the estate and family of a farmer who died from mesothelioma after allegedly being exposed to asbestos from using Remington brand shotgun shells from the 1960s to the 1980s. The jury found that the defendants were negligent but that their conduct did not constitute willful or wanton disregard for the rights or safety of the decedent.

July 3, 2025 | [Carpenter v. 3M Co.](#), No. 20STCV46727 (Cal. Super. Ct.).

A California jury returned a defense verdict in an asbestos case, finding that the plaintiff's alleged exposure to asbestos-containing automobile parts was not a substantial factor in causing his lung cancer. Substantial factor was the first, and therefore only, question answered by the jury on the verdict form.

Science & News

IARC Classifies Atrazine As Probably Carcinogenic to Humans

November 21, 2025 | [IARC Monographs Evaluate the Carcinogenicity of Atrazine, Alachlor, and Vinclozolin](#)

Volume 140 of the IARC *Monographs*, expected to be published in late 2026 or early 2027, will classify the chemical atrazine as "probably carcinogenic to humans." This classification follows the meeting of an IARC working group in November 2025. Atrazine is used in weed-controlling agents.

Nanoplastics Purportedly Found in Root Vegetables

September 23, 2025 | [Determining the Accumulation Potential of Nanoplastics in Crops: An Investigation of ¹⁴C-Labelled Polystyrene Nanoplastic into Radishes](#)

Researchers at the University of Plymouth have discovered microplastics in vegetables. Using radishes, the researchers found that 10% of the plastics had been absorbed into the shoot of the plants after five days in a test solution.

Study Examines Phthalates in Personal Care Products and Food Packaging and Breast Cancer

September 15, 2025 | [Endocrine Disruption to Metastasis: How Phthalates Promote Breast Carcinogenesis](#)

A study has linked exposure to phthalates—commonly found in personal care products and food packaging—to damage to the body's hormone systems. The study suggests that phthalates can act like estrogen in the body, potentially triggering uncontrolled cell growth. The researchers call for more long-term studies at lower doses of exposure to simulate more realistic exposure levels.

Prenatal Phthalate Exposure Lowers Boys' Verbal IQ, Study Authors Claim

August 2025 | [Prenatal Exposure to Phthalates and Preschool Children's Intellectual Scores: Effect Modification by Child Sex](#)

A published study of Canadian mothers and their children purports to have found a link between prenatal exposure to phthalate compounds, such as di-isodecyl phthalate (DiDP), and a negative and measurable impact on boys' full-scale intelligence quotient (FSIQ). Although the authors note the dip in FSIQ was modest, they caution that even a small dip "can push thousands of children above or below educational thresholds, underscoring public health relevance." The researchers call for further studies in "modern, diverse populations."

Study Supposedly Finds Microplastics in Beverages

August 2025 | [Synthetic Microplastics in Hot and Cold Beverages from the UK Market](#)

A University of Birmingham study purports to have found microplastics in each of the 31 drinks tested, not just in water.

The highest concentrations were found in hot beverages like tea and coffee, especially those served in disposable cups, suggesting those containers are the source of the microplastics.

EPA Postpones TSCA Rule on TCE Again

August 20, 2025 | [Extension of Postponement of Effectiveness for Certain Provisions of Trichloroethylene \(TCE\); Regulation Under the Toxic Substances Control Act \(TSCA\)](#)

The EPA is extending enforcement of its TSCA rule on TCE, most recently extended in June. The postponement only affects portions of the rule currently the subject of a legal challenge in the Third Circuit Court of Appeals. The EPA notes that the "extension of the postponement applies, for example, to the conditions imposed . . . for the use of TCE as a processing aid for specialty polymeric microporous sheet material manufacturing." The postponement extended to November 17, 2025.

EPA Seeks Comment on TSCA Regulation of BBP and DIBP

August 6, 2025 | [Butyl Benzyl Phthalate \(BBP\); Diisobutyl Phthalate \(DIBP\); Draft Risk Evaluations Under the Toxic Substances Control Act \(TSCA\); Notice of Availability and Request for Comment](#)

The EPA sought comment on its draft risk evaluation of the phthalates BBP and DIBP under the TSCA. The EPA has said the point of the rule is to determine whether the chemicals pose an unreasonable risk of injury to health or the environment under the conditions of use. The comment period closed October 6, 2025.

Study Allegedly Links Chlorpyrifos to Disrupted Sleep, Damage to Brain Function and Immune Health

August 1, 2025 | [Long Lasting Effects of Perinatal Exposure to the Chlorpyrifos Pesticide on Sleep, Breathing, and Neuroinflammation in Adult Mice](#)

A published study has linked perinatal exposure to the insecticide Chlorpyrifos in mice to disrupted sleep patterns, brain inflammation—especially in female mice—and damage to genes that control immune responses. Chlorpyrifos was largely restricted to nonresidential use in 2000 but continues to be used in agriculture, at golf courses, and to control

mosquitos. The EPA issued a proposed rule in December 2024 to further restrict the insecticide's uses to certain crops. The authors of the study say it adds "to the literature on pregnancy and breastfeeding as a potentially vulnerable period to pesticide exposure."

Study Suggests People Breathe in 68,000 Potentially Lung-Penetrating Microplastics Daily

July 30, 2025 | [Human Exposure to PM10 Microplastics in Indoor Air](#)

A study by Nadiia Yakovenko and colleagues at the Université de Toulouse used Raman spectroscopy to measure the size of microplastics suspended in the air in average homes and vehicles. They suggest in their findings that potentially 90% of such microplastics are small enough to penetrate human lungs, 100 times that previously estimated.

EPA Seeks Comment on TSCA Regulation of PCE

July 30, 2025 | [Perchloroethylene \(PCE\); Regulation Under the Toxic Substances Control Act \(TSCA\); Request for Comment](#)

The EPA sought comment to inform its reconsideration of its December 2024 rule regulating PCE, a common solvent, under the TSCA. The rule required various workplace controls of PCE and imposed certain industrial, commercial, and consumer restrictions on its use. The EPA decided to reconsider the rule through rulemaking after several legal challenges to the new rule were launched this year. The comment period closed August 29, 2025.

Study Purports to Link Microplastics to Changes in Lung Cells Associated with Cancer

July 15, 2025 | [Small Particles, Big Problems: Polystyrene Nanoparticles Induce DNA Damage, Oxidative Stress, Migration, and Mitogenic Pathways Predominantly in Non-malignant Lung Cells](#)

Researchers at MedUni Vienna studied the interaction of lung cells with microplastics, claiming that after exposure, lung cells showed increased cell migration, DNA damage, oxidative stress, and the activation of signaling pathways that promote cell growth and survival. The study notes that further research is needed to fully understand any potential connection between microplastics and cancer.

Lead Exposure Leads to Faster Forgetting Among Children According to Study

July 9, 2025 | [Developmental Pb Exposure Increases Rate of Forgetting on a Delayed Matching-to-Sample Task Among Mexican Children](#)

A study published in *Science Advances* found that developmental exposure to lead is associated with an increased rate of forgetting among children. The study measured blood lead levels during pregnancy and at ages four and six and used a delayed matching-to-sample task to measure rate of forgetting. The authors of the study claim that it shows that even low levels of lead can impair children's cognitive function.

Researchers Believe There Are 27 Million Tons of Nanoplastics in North Atlantic

July 9, 2025 | [Nanoplastic Concentrations Across the North Atlantic](#)

Researchers from the Helmholtz Centre for Environmental Research (UFZ), Utrecht University, and the Royal Netherlands Institute for Sea Research performed analysis they believe allows them to quantify the amount of nanoplastics—microplastics less than a micrometer in size—in the North Atlantic Ocean. The researchers found that nanoplastics were distributed at all 12 sampling locations and all measured depths, even near the seabed. Their study led the researchers to conclude that nanoplastics account for more of the plastic in the ocean than either macroplastics or microplastics.

EPA Extends Compliance Date for Coke Manufacturing Facilities to Comply with New NESHAP Standards

July 8, 2025 | [National Emission Standards for Hazardous Air Pollutants for Coke Ovens: Pushing, Quenching, and Battery Stacks, and Coke Oven Batteries; Residual Risk and Technology Review, and Periodic Technology Review](#)

In response to petitions from industry submitted in September 2024, the EPA has extended the time for coke manufacturing facilities to comply with new requirements in the National Emission Standards for Hazardous Air Pollutants (NESHAP). These facilities now have until July 2027 to comply with new requirements for fence line monitoring, maximum achievable control technology, and regulations on emissions monitoring near oven doors.

Expert Decisions

Georgia Court of Appeals Applies Eleventh Circuit Standard

October 31, 2025 | *Sterigenics US LLC v. Mutz*, No. A25A1377 (Ga. App. 2025).

The Georgia Court of Appeals held that because O.C.G.A. § 24-7-702 is “materially identical” to Federal Rule 702, Georgia courts should apply the Eleventh Circuit standard as enunciated in *McClain v. Metabolife International Inc.* and its progeny in determining the admissibility of expert testimony on general causation in toxic tort cases. Finding the trial court did not apply that standard in ruling on the defendant's motions to exclude expert testimony on general causation and motion for summary judgment based on a lack of proof of general causation, the state court of appeals vacated the trial court's order and remanded.

Georgia Court Grants Motions to Exclude Experts and Motion for Summary Judgment

October 17, 2025 | *Mutz v. Sterigenics U.S. LLC*, No. 20-A-3448 (Ga. St. Ct. 2025).

The State Court of Cobb County granted the defendants' motions to exclude the plaintiffs' specific causation experts and for summary judgment, finding the plaintiffs' expert testimony was inadmissible and the plaintiffs lacked admissible proof on specific causation to survive summary judgment. The court excluded the plaintiffs' expert because his opinions of the defendant's ethylene oxide emissions and the plaintiff's alleged exposures and cancer risks were not based on reliable data and his opinions on background ethylene oxide levels were unreliable; the court also excluded the plaintiffs' other experts who relied on his opinions.

The Fourth Circuit Reverses Exclusion of Air Modeling Expert in Medical Monitoring Class Action

August 18, 2025 | *Sommerville v. Union Carbide Corp.*, No. 24-1491 (4th Cir.).

The Fourth Circuit reversed the district court's exclusion of the plaintiff's expert and grant of summary judgment for lack of standing in a toxic tort medical monitoring case. The district court had excluded expert testimony on exposure modeling

for being unreliable under Rule 702. The divided appellate court reversed, viewing the problems with the expert's opinions as data inputs and credibility issues that the court held were not grounds for exclusion under Fourth Circuit law, and that the plaintiff's alleged injury under West Virginia law was sufficient for Article III standing.

Challenges to Medical and Toxicology Experts in Jet Fuel Contamination Trial

August 7, 2025 | *Feindt v. United States*, No. 1:22-cv-00397 (D. Haw.).

The District of Hawaii addressed *Daubert* challenges to both sides' medical and toxicology experts in a bench trial over jet fuel contamination, admitting expert testimony on general and specific causation when methodologies were reliable and opinions supported by evidence, but excluding opinions that were speculative or not based on sufficient facts. The court found the experts' approaches reliable under Rule 702 because they used established toxicological and medical criteria, including temporality, dose-response, and differential diagnosis, and systematically ruled out alternative causes. The court excluded opinions only if the methodology was not reliably applied to the facts or if the expert's opinion was based on speculation rather than sufficient data, as required by *Daubert*. The court provided a detailed assessment of each expert's methodology, the factual basis for their opinions, and the application of Rule 702 to the complex scientific and medical issues in the case.

California Court Excludes Speculative and Unfounded Expert Testimony in Talc Litigation

August 1, 2025 | *Moore v. Johnson & Johnson*, No. 21STCV05513 (Cal. Super. Ct.).

A California state court excluded expert opinions in talc litigation that were speculative or lacked a reliable scientific basis, holding they did not meet the reliability and relevance requirements of California's Rule 702 analog. The court excluded causation opinions not based on sufficient facts or reliable methodology, such as those relying on newspaper articles or non-testifying experts. In contrast, the court admitted expert testimony when the proponent established a reliable foundation, including an expert's article and key, finding her methods for asbestos detection in talc sufficiently reliable. Disputes over interpretation of the expert's findings

were deemed issues of weight, not admissibility. Experts were permitted to rely on materials reasonably used in the field, but their opinions had to be grounded in reliable principles and methods properly applied to the facts.

Delaware Supreme Court Bars NDMA-Based Expert Testimony

July 10, 2025 | *In re Zantac (Ranitidine) Litigation*, No. 255, 2024 (Del.).

The Delaware Supreme Court reversed the superior court's order admitting expert testimony linking NDMA exposure from ranitidine to cancer. The court held that Delaware law requires trial courts to evaluate the reliability of scientific opinions and that the plaintiffs' experts failed to bridge the gap between ranitidine ingestion and harmful NDMA levels. The decision precluded thousands of Zantac claims from proceeding on the expert record as presented, clarifying that experts must reliably link the product at issue to the alleged harm, not just the toxic agent in the abstract.

Fifth Circuit Upholds Exclusion of Causation Experts in Oil Spill Toxic Tort Case

July 10, 2025 | *Williams v. BP Exploration & Production Inc.*, No. 24-60095 (5th Cir.).

The Fifth Circuit affirmed exclusion of two causation experts in a *Deepwater Horizon* toxic tort case, finding their methodologies unreliable under Rule 702. The first expert's differential etiology failed to evaluate alternative causes, and the second's report contained errors and unreliable exposure assumptions. The court emphasized that the proponent must prove reliability, and without admissible expert testimony on specific causation, summary judgment for BP was proper.

District Court Denies Certain Motions to Exclude Groundwater Contamination Experts

July 10, 2025 | *Suffolk County Water Authority v. Dow Chemical Co.*, No. 2:17-cv-06980 (E.D.N.Y.).

The Eastern District of New York denied certain motions to exclude the plaintiff's experts in a groundwater contamination case. The court rejected challenges to the experts' statistical models and datasets that it said went to the weight rather than the admissibility of the evidence. The court excluded other opinions that lacked a sufficient factual basis or were legal conclusions.

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