

Essay on legal case brief (expert witness)

[Law](#), [Evidence](#)



Daubert vs. Merrell Dow Pharmaceuticals, Inc.

Argued March 30, 1993

Decided June 28, 1993

Parents of two little children filled a complaint stating that medicine, produced by Merrell Dow Pharmaceuticals, Inc. and taken by children's mother during the pregnancy caused children's serious birth defects. During the trial, both sides had expert witnesses. The expert witnesses of Merrell Dow Pharmaceuticals, Inc. presented statistical data, scientific articles and analysis of the medicine that proved that it does not influence woman's pregnancy at all. On the other hand, expert witnesses of the Dauberts provided the court with "reanalyzed" data, results of experiments on animals (which showed that the medicine does cause serious damage during pregnancy) and unofficial data. The court agreed that the data presented by the Dauberts was not relevant. Hence, there was no reason to suit Merrell Dow Pharmaceuticals.

I agree to the court's decision. The both sides had expert witnesses; however, only one of them could have proved the relevance and trustworthiness of the data. Expert witnesses were invited because they had needed knowledge to help the court solve the case:

"If scientific, technical, or other specialized knowledge will assist the trier of fact to understand the evidence or to determine a fact in issue, a witness qualified as an expert by knowledge, skill, experience, training, [509 U. S. 579, 8] or education, may testify thereto in the form of an opinion or otherwise." (Daubert vs. Merrell Dow Pharmaceuticals)

There have been many debates according to the relevance of data presented

by the Daubert's expert witness. Some scholars argued that the data was relevant and Merrell Dow Pharmaceuticals faked their data. On the other hand, there were some scholars, who argued that Daubert's expert witness presented fake data, mostly because of the words "unofficial" and "reanalyzed" in it. The court evaluated both testimonies and stated that Merrell Dow Pharmaceuticals did present relevant data. Relevant data is the data that "has any tendency to make a fact more or less probable than it would be without the evidence; and the fact is of consequence in determining the action." (Rule 401 of federal rules of evidence). To show that facts are relevant, the expert witness should have observed the experiments or facts to be presented.

In this case, there is a question: why one the expert witnesses provided different information and why did not the Dauberts win? It has been already mentioned before who can perform the role of an expert witness. However, the rule 702 of the federal rules of evidence state that there are some causes of appointing a person to be an expert witness:

"(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 the principles and methods to the facts of the case." (Rule 702)

As we see in this case, only one side provided relevant data. The court decided that unofficial statistics and "reanalyzed" data, as well as the results of experiments on animals could not prove that this very medicine

caused children's serious birth defect. According to the rule 703 "Bases of an expert", every expert should base one's testimony on facts and data that he or she is aware of.

The court decided that the expert witness of the Dauberts was not of general acceptance. Hence, the testimony is not relevant. The point is that the Dauberts tried to appeal. In their appeal, they stated that there is no rule describing what "general acceptance" is. However, the judge outlined what general acceptance is according to the Rule 702 of federal rules of evidence.

There is some difference between ordinary witnesses and expert witnesses. The first difference is that every expert witness is chosen by the court and paid for the testimony. According to the rule 706, when the court appoints an expert witness a side or both sides can refuse him in help. However, they should provide reasonable ground for that. Another significant difference is that an ordinary (a lay) witness bases one's testimony only on personal perception of the situation. The lay witness' testimony cannot be based on scientific, technical or other specialized knowledge (Rule 701, Federal rules of evidence). Besides, when speaking about lay witnesses and expert witnesses, it is worth to mention that there are no such strict rules for ordinary witness testimony. The point is that an expert witness should be able to prove everything he or she testifies.

In this essay, I analyzed the case Daubert vs. Merrell Dow Pharmaceuticals, Inc. Both sides had expert witnesses; however, Merrell Dow Pharmaceuticals, Inc. won the case. In the essay, I tried to figure out the reasons why the expert witness of the Dauberts did not win. In the analysis, I applied several

federal rules of evidence that determine the role of an expert witness and lay witness (ordinary witness). Besides, in the end of the essay, I tried to contrast lay and expert witness. I outlined the main differences between them, the process of their choice, as well as their main roles and responsibilities.

References:

Dauert vs. Merrell Dow Pharmaceuticals. Retrieved from <http://caselaw.lp.findlaw.com/scripts/getcase.pl?navby=case&court=us&vol=509&page=579#t4>

Federal Rules of evidence. Rule 702, 703, 401. Retrieved from <http://www.law.cornell.edu/rules/fre>

Newby P. Lay opinion testimony and expert witness. 2010. Supreme Court of North California