

Acting Administrative Director Michael J. Blee
Administrative Office of the Courts
Attn: Evid. Rules Committee Report on N.J.R.E. 702
Hughes Justice Complex
P.O. Box 037
Trenton, New Jersey 08625-0037

Dear Mr. Blee:

On behalf of a coalition of New Jersey business organizations, we respectfully submit comments in response to the 2026 Mid-Cycle Report of the Supreme Court Committee on the Rules of Evidence regarding N.J.R.E. 702 (“Report”). Our organizations represent a broad cross-section of employers and industries across the State and share a strong interest in a fair, predictable, and efficient civil justice system.

We appreciate the Committee’s thoughtful consideration of this issue. However, we respectfully disagree with the Committee’s recommendation and urge adoption of a clarifying amendment to N.J.R.E. 702. Accordingly, we write in support of the arguments set forth in the New Jersey Defense Association’s comment letter on this matter.

At the outset, it is important to emphasize that the proposed amendment is not a substantive change in the law. Rather, it clarifies and reinforces principles already recognized by the New Jersey Supreme Court, including in *In re Accutane*. The amendment is not opposed on substantive grounds.

The absence of a substantive change should make adoption of the amendment straightforward. Yet the Committee reasoned that, because the amendment does not alter the governing standard, it is unnecessary. Respectfully, that conclusion underscores the need for the amendment. The very fact that clarification is being sought reflects a lack of consistent application in practice and highlights the need for clearer direction to ensure that the Rule is applied as intended.

The importance of the amendment lies in the practical reality that courts do not always apply these principles with the rigor that existing New Jersey law requires. Too often, trial courts do not conduct the necessary evidentiary hearings or make findings regarding the admissibility criteria for expert testimony. Instead, courts default to admitting expert evidence on the basis that disputes over such testimony go to the “weight” of the evidence rather than to its admissibility.

A clarifying amendment is therefore necessary to underscore the trial court’s role as a gatekeeper and to ensure that this responsibility is exercised through a meaningful and consistent review process. The amendment makes clear that expert testimony may not be admitted unless the proponent demonstrates to the court that it is more likely than not that the proffered testimony

satisfies the Rule's admissibility requirements. The court must also ensure that any proffered opinions reflect a reliable application of principles and methods to the facts of the case.

The Committee's acknowledgment that additional training may be needed to interpret and apply N.J.R.E. 702 further underscores the need for greater clarity in the Rule itself. A clear and consistent standard will better equip courts to carry out their gatekeeping function and promote uniform application across New Jersey courts.

Similarly, the lack of consensus within the Committee highlights the need for clarification. Where there is significant disagreement regarding application, additional guidance in the Rule can help reduce inconsistent outcomes and provide more predictable standards for litigants.

From the perspective of the business community, predictability in evidentiary standards is critical. Decisions regarding expert testimony often shape litigation outcomes well before trial, and inconsistent application can increase costs, prolong litigation, and create unnecessary uncertainty for all parties.

We appreciate the opportunity to provide these comments and would welcome continued engagement on this important issue, particularly with respect to promoting consistent and rigorous exercise of the trial court's gatekeeping responsibility under N.J.R.E. 702.

Respectfully submitted,

Elissa Frank
President, New Jersey Civil Justice Institute

HealthCare Institute of New Jersey
Insurance Council of New Jersey
New Jersey Business and Industry Association
New Jersey Chamber of Commerce
New Jersey Civil Justice Institute