

Rule 702 of the Texas Rules of Evidence states,

A witness who is qualified as an expert by knowledge, skill, experience, training, or education may testify in the form of an opinion or otherwise if 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.

Expert Qualifications, Subject Matter of the Expert Testimony, and Assists the Fact Finder

Expert testimony is not admissible under Rule 702 unless:

- (1) “the witness qualifies as an expert by reason of his knowledge, skill, experience, training, or education;”
- (2) “the subject matter of the testimony is an appropriate one for expert testimony;” and
- (3) “admitting the expert testimony will actually assist the factfinder in deciding the case.”

Qualifications

Proponent must show:

- (1) has “a sufficient background in a particular field” and that their
- (2) background goes “to the matter on which the witness is to give an opinion.”

Qualifications

The proponent of an expert witness must show that the proffered expert:

- (1) has “a sufficient background in a particular field” and that their, and
- (2) background goes “to the matter on which the witness is to give an opinion.”

Reliability

- The proponent of expert testimony bears the burden of showing by clear and convincing evidence that the testimony is reliable and relevant.
- Reliability is proven in two different ways depending on whether the evidence relates to a “hard science” or a “soft science.” “Hard” science refers to Newtonian sciences (e.g., physics and mathematics) involving “precise calculations and the scientific method . . .” and some medical sciences. “Soft” science refers to non-scientific expert testimony.
- Hard science (Kelley) versus soft science (Nenno)

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Reliability for Hard Sciences

- To show that expert testimony based on a “hard science” is reliable, the proponent of the evidence must prove by clear and convincing evidence, outside the presence of the jury, that:
 - (1) the underlying scientific theory is valid;
 - (2) the technique applying the theory is valid; and
 - (3) the technique was properly applied on the occasion in question.

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