

PREFACE

2026 Supplement

This supplement includes all recent revisions to the Wisconsin Rules of Evidence and published cases through April 2026.

The following developments are especially noteworthy for their impact on expert witness testimony:

- The March 2026 revision of Wis. Stat. § 907.02(1) governing expert witness testimony in civil and criminal cases. The revision requires the trial judge, upon objection, to decide whether each element of the rule is established by a preponderance of the evidence, especially the “reliability” elements. See § 702.403. The revision is consistent with the same changes made to federal Rule 702 in 2023.
- The Wisconsin Supreme Court has rolled back case law that had limited the use of “statistical” evidence regarding the truthfulness of child abuse victims. The decision antedates the changes to § 907.02 described above. See § 608.3 discussing *State v. Molde*.
- Construing the ban on contingent fee agreements for expert witness testimony in § 907.02(2), the court of appeals held that it does not extend to medical “liens” by treating physicians whose payment depends on a recovery at trial. See New § 702.11.

As always, I welcome your suggestions, corrections, comments, and criticisms, including typos, as well as more substantive concerns.

Daniel D. Blinka
Professor of Law
Marquette University Law School
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Milwaukee, WI