



Product Liability

Alex P. Blair

Goldberg Segalla LLP, Chicago

Seventh Circuit Upholds Barring of Plaintiff's Experts Due to Failure to Prove Product Defect and Unreliable Methodology in Uniform Dye Exposure Matter

On October 23, 2025, the United States Court of Appeals for the Seventh Circuit affirmed the United States District Court for the Western District of Wisconsin excluding the opinion of Plaintiffs' product defect and causation experts pursuant to Federal Rule of Evidence 702 in a case wherein airline employees alleged they were sickened by chemicals and dye leaching from their new uniforms. *Gilbert v. Lands' End, Inc.*, No. 23-3162, 2025 U.S. App. LEXIS 27778.

Hundreds of Delta Airlines employees sued Lands' End, Inc. after the clothing manufacturer contracted with the airline to supply new uniforms. *Gilbert*, 2025 U.S. App. LEXIS 27778, at *2. One group of plaintiffs, known as the "Gilbert plaintiffs," sought compensation for staining of their personal property pursuant to the express warranties in Lands' End's contract with Delta. *Id.* at *4. A second group, known as the "Andrews plaintiffs," brought a product liability lawsuit alleging a variety of personal injuries allegedly caused by exposure to the dye, including headaches, anxiety, and breathing difficulties. *Id.* at *3. The district court consolidated the cases filed by both groups of Plaintiffs and subsequently granted Lands' End summary judgment. *Id.*

No Evidence of a Defect

The Court of Appeals spent the majority of the opinion focusing on the causation evidence offered by the Andrews plaintiffs' product defect and causation experts. Applying Wisconsin substantive law, the Court noted that expert testimony would be necessary to prove the existence of a product defect because such a finding would necessarily involve evaluating scientific test results on the uniforms. *City of Cedarburg Light & Water Comm'n v. Allis-Chalmers Mfg. Co.*, 148 N.W.2d 13, 16-17 (Wis. 1967). Although plaintiffs' textile expert concluded that Lands' End garments employed a defective dye process and leached various chemicals and heavy metals, he did not opine "whether, how, or at what concentrations such a chemical transfer would qualify as a defect." *Gilbert*, 2025 U.S. App. LEXIS 27778, at *9. Indeed, the textile expert admitted at this deposition that the same compounds "were routinely found in garments and were not present at concerning levels in the tested uniforms." *Id.* at *10. As such, the Court upheld the district court's ruling that plaintiffs had not demonstrated a genuine factual dispute as to the existence of a defect. *Id.* at *13.

Methods vs. Conclusions

Although the Court acknowledged that failure to prove a product defect was fatal to Andrews plaintiffs' claim as a threshold matter, the Court also upheld the district court's ruling that plaintiff's causation expert failed to reliably apply epidemiological methods and frameworks. *Id.* The Court noted that it would be proper to exclude an expert's opinion

under Rule 702 if the experts *methods* were unreliable but would be improper for a court to bar an expert if it found the expert's *conclusions* unreliable. “District courts can ‘usurp[] the role of the jury ... if [they] unduly scrutinize[] the quality of an expert’s data and conclusions rather than the reliability of the methodology the expert employed.’” *Id.* at *17 (citing *Manpower, Inc. v. Ins. Co. of Pa.*, 732 F. 3d 796, 806 (7th Cir. 2013)). Of particular interest to practitioners, the Court discussed the December 2023 amendments to Federal Rule of Evidence 702, which in “the expert’s opinion reflect[] a reliable application of the principles and methods to the facts of the case.” *Gilbert*, 2025 U.S. App. LEXIS 27778, at *9 n.3 (citing Fed. R. Evid. 702). Counsel for Lands’ End argued that the amendment and advisory comments demonstrated that it was permissible to challenge “the sufficiency of an expert’s basis” as well as “methodology” under Rule 702. *Id.* The Court seemed to acknowledge that the December 2023 amendments represented a more permissive standard in “tension” with the *Manpower* precedent’s distinguishing of an expert’s conclusions from their methodology. *Id.* Naturally, the Court did not expressly overrule *Manpower* in the footnote but merely stated that its conclusion in the instant case would be the same even under the stricter *Manpower* precedent. *Id.* Nonetheless, the footnote indicates a potential willingness of the Seventh Circuit to entertain Rule 702 challenges if an expert’s *conclusions* are not sufficiently based on the evidence.

Failure to Reliably Apply Data Analysis Principles

The Court faulted plaintiffs’ causation expert’s methodology for (1) uncritical reliance on potentially biased questionnaire data, and (2) improperly distilling a nine-step epidemiological analysis into three steps. *Id.* at *16-27. The expert relied “exclusively” on data collected from questionnaires sent by Lands’ End during discovery to the Delta employees engaging in litigation against it. *Id.* at *16. The district court found that the questionnaire could produce biased results in that it was only sent to employees who had a financial interest in the outcome of the litigation and was designed with discovery in mind, not epidemiology. *Gilbert*, 2025 U.S. App. LEXIS 27778, at *16.

Plaintiffs’ causation expert failed to acknowledge or make any efforts to control for these obvious biases in the data. *Id.* at *19. The Court stated that “simply acknowledging potential weaknesses in the data and considering a remedy may have been sufficient” to satisfy Rule 702. *Id.* The expert also utilized an epidemiological framework known as a “Bradford-Hill analysis,” which is widely used to determine a causal relationship between an individual’s symptoms and a potential cause. *Id.* A traditional Bradford-Hill analysis consists of nine criteria: “(1) plausibility; (2) strength of association; (3) consistency; (4) biological gradient (dose-response relationship); (5) specificity of the association; (6) analogy; (7) temporality; (8) experiment (cessation of exposure); and (9) coherence.” *Id.* at *22, citing Austin Bradford-Hill, *The Environment and Disease: Association or Causation?*, 58 Proc. Royal Soc’y Med. 295, 295-99 (1965).

The causation expert used by the Andrews plaintiffs in *Gilbert*, however, used a “distilled” version of the Bradford-Hill analysis that only considered three of the factors. *Gilbert*, 2025 U.S. App. LEXIS 27778, at *22. Although merely distilling the variables down was not *per se* improper, in this case the expert failed to provide reasoning or evidence as to how the three variables were appropriate substitute for the traditional nine variables. *Id.* The expert also relied on an alternative epidemiological framework, “the Naranjo algorithm,” but since it relied on the same uncritical analysis of the questionnaire data, the Court found that the conclusions derived from the algorithm were flawed as well. *Id.* at *26.



Applying Choice of Law Principles with Respect to Express Warranties

After finding that the district court did not abuse its discretion by excluding the opinions of the Andrews plaintiffs' experts and granting summary judgment, the Court turned to the express warranty claims for property damage pursued by the Gilbert plaintiffs. *Id.* at *27. The express warranty was located in the contract between Delta Airlines and Lands' End, and stated that "if at any time, for any reason . . . any actively employed Employee is not 100% satisfied with their Products (even if they have been washed, worn and/or embroidered), they can return them at any time . . . for a refund or exchange." *Id.* Lands' End had successfully moved for summary judgment with the district court by simply pointing out that none of the Gilbert plaintiffs returned their uniforms as required by these terms. *Id.* at *28. The contract also had a choice of law provision which mandated Delaware law. *Gilbert*, 2025 U.S. App. LEXIS 27778, at *28. Because Wisconsin law honors choice of law provisions in contracts unless public policy would be implicated, the *Gilbert* court applied Delaware's version of the Uniform Commercial Code. *Id.* at *29. Delaware law holds that a warranty can be limited by contractual language so long as the language does not completely negate the warranty. *Id.* The Court found the contract reasonably limited the express warranty language, and upheld summary judgment because the plaintiffs did not return their uniforms for a refund. *Id.* at *30.

Correlation will always be presented as a substitute for causation, but the Seventh Circuit's reasoning in *Gilbert* demonstrates that experts should not take shortcuts in developing causation opinions. Further, it signals a willingness for the Seventh Circuit to consider challenges to experts' conclusions.

About the Author

Alex P. Blair is a partner in *Goldberg Segalla LLP's* Chicago office. He focuses his litigation practice in the fields of products liability, toxic torts, and professional liability. He has represented clients in state and federal courts in Illinois and has extensive experience defending cases involving product defect and toxic tort exposures.

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