

Quotes from Judges regarding Evan Hendricks when they qualified him as an expert witness, and allowed to testify at trial

In *Julie Miller v. Equifax Credit Information Services, LLC*: U.S. District Court for the District of Oregon. Judge Anna J. Brown commented:

I think Mr. Hendricks, by virtue of his long experience as a consumer advocate, who has had the kind of access he describes to information that's not generally publicly available, about how credit reporting agencies function and how they respond to disputes and complaints by consumers, does in fact have specialized knowledge about the consumer -- I'm sorry, the credit reporting agency industry, if you will ...

... THE COURT: Well, I can tell you I'm -- I'm satisfied Mr. Hendricks is qualified by his actually acquired experience and knowledge to offer some opinions that will be helpful to the jury on one or more of the ten contentions plaintiff is ready to proceed on.

In *Eric Robert Drew vs. Equifax Information Services, LLC, et al.*, U.S. District Court for the Northern District of California, Case No. CV 07-00726-SI. Expert report, Deposition, Trial Testimony. *Daubert* challenge. Judge Susan Illston presiding.

Defendant objects to the admissibility of the FTC and state Agreement of Assurances documents, and to Mr. Hendricks's testimony regarding them ...

Even if the agreements themselves (and Mr. Hendricks's testimony regarding them) were not admissible, the logic of Mr. Hendricks's conclusion would be supported by his expertise and the record.

In *Laura Jones v. Capital One*: U.S. Bankruptcy Court for the Eastern District of Virginia (Alexandria), Case 09-14499-BFK, Chapter 7. Judge Brian F. Kenney, said from the bench:

"Before we begin with Mr. Hendricks, a brief disclosure. I had a case a few years ago. Mr. Hendricks may recall that I was representing a creditor in which Mr. Hendricks was identified as an expert witness in the Eastern District of Virginia. I believe it was the *Sloane* case, Mr. Hendricks. I took Mr. Hendricks' deposition and I subsequently moved to exclude him as an expert in the case on a *Daubert* challenge. I lost the *Daubert* challenge. The court allowed him to testify as an expert witness; and I will say, during the course of his deposition and the *Daubert* challenge, I learned quite a bit about credit reporting. Just in the interest of full disclosure, I'll disclose that to the parties."

In *Angela P. Williams vs. Equifax Information Services, LLC, et al.*, Circuit Court for the Ninth Judicial Circuit, Orange County Florida.

In response to Equifax's *Daubert* challenge, Judge George A. Sprinkel IV presiding: "Well, I'm certainly going to permit the expert's testimony."

In April Barnett vs. Chase Bank, Judge Virginia Hopkins

"Consistent with the qualification principles outlined in *Frazier*, the court find that Mr. Hendricks's substantial experience in the fields of consumer information generally and credit reporting more specifically renders him qualified to testify about Chase's noncompliance with its loan servicing and credit reporting practices and procedures, including his years of accumulated internal data regarding Chase, the way Chase maintains, uses, and discloses information,⁴ how that relates to credit reporting on a consumer, and how that impacts on the credit reputation of consumers, like Ms. Barnett.

Relatedly, the court determines that Mr. Hendricks is qualified to testify about industry practices, including how credit reporting agencies function and how they respond to disputes and complaints by consumers. Mr. Hendricks is similarly qualified to testify about the nature and purpose of credit, credit reports, and credit scores.

Additionally, the court concludes that Ms. Barnett has satisfied the helpfulness prong of Rule 702. In particular, the court is persuaded that Mr. Hendricks's expert testimony in all these areas will assist the jury and offer "more than what lawyers for the parties can argue in closing arguments." *Frazier*, 387 F.3d at 1262-63. Accordingly, the corporate compliance section of the *Daubert* Motion is **DENIED**, and Mr. Hendricks is **HEREBY PERMITTED** to offer opinions about Chase's noncompliance with its own policies and procedures in its handling Ms. Barnett's loan and the reporting of her credit with the exception of any negligence related opinions like those identified in Ms. Barnett's opposition (*i.e.*, Chase's failure to exercise adequate care) because no negligent hiring, training, and/or supervision claim remains in the lawsuit.¹⁰

2. Opinions On Chase's Conduct in Other Cases

Chase seeks to prohibit Mr. Hendricks from testifying about its alleged mistreatment of other borrowers in other cases on the basis that such evidence "would not assist the trier of fact in understanding or reaching a decision on any of the claims in this case, nor are they relevant to the jury's determinations." (Doc. 82 at 34). Ms. Barnett counters that this evidence is relevant to her fraud claims to show the *prima facie* element of Chase's intent to deceive her and its possible financial motive to misrepresent the status of her loan. This type of expert evidence is also relevant to establishing Ms. Barnett's breach of contract claim.

Accordingly, the Chase's conduct in other cases section of the *Daubert* Motion is **DENIED**, and Mr. Hendricks is **HEREBY PERMITTED** to offer opinions about Chase's noncompliance with its own policies and procedures in its handling of loans by other borrowers, including in particular its handling of Mrs. Barlow's loan.

In *Matthew Kirkpatrick v. Equifax, LLC*, U.S. District Court for District of Oregon, (Slip. Op. CV-02-1197-MO, in response to Equifax's *Daubert* challenge in 2005, Judge Michael W. Mosman said from the bench:

THE COURT: That's fine.

4 The last and major issue we left with when we were
5 last together was the expert testimony of Evan Hendricks. I
6 reviewed that material. There are sort of layers of
7 questions about it.

8 The first question is, is this an area subject to
9 expert testimony. I believe that it is under *Kumho Tire*.
10 It's certainly not the standard scientific testimony under
11 *Daubert*, but under *Kumho Tire*, I believe it's an area that
12 is subject to expert testimony.

13 The second question is is Mr. Hendricks in the
14 abstract or in general qualified as an expert in this
15 general area. And I believe that he is. There are things
16 that he has reviewed that aren't readily available to the
17 jury. There's a context of congressional action, industry
18 issues and identity theft as a nationwide problem that would
19 be helpful to the jury to hear from someone who has studied
20 these issues.

21 The sources of his study are sufficient to qualify
22 him as an expert both with regard to what he has read, and
23 that includes not only his own paper that he puts out, but

24 the deposition testimony is a sufficiently precise and
25 unavailable source of expertise that it would be helpful to

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1 the jury to hear from someone who has assimilated that sort
2 of information.

3 The more precise question, and really the question
4 raised by the defense is is his testimony in this case
5 supported by any of that sort of research and expertise on
6 particular issues that are raised. And my answer to that is
7 that on most of them, I believe that his testimony is
8 sufficiently supported by his own expertise; that is, that
9 what he offers to this jury on the issues presented in this
10 case is sufficiently supported by his general expertise to
11 satisfy Rule 702.

12 As a general statement, what I'm allowing and the
13 reason I'm allowing it is testimony that puts the particular
14 actions of the defendant in particular here in context, in
15 the context of the nationwide problem of identity theft, in
16 the context of the congressional reaction to that and other
17 issues in the credit-reporting industry, when he can by
18 virtue of his study and his prior testimony, both in court

19 and to Congress, make comparisons, then that's something

20 that's helpful to the jury ...