



Florida Supreme Court Says Frye Is 'Still The One', Law360

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In 2015, the Florida Legislature amended Fla. Stat. Section 90.702 to adopt the Daubert standard for admitting expert testimony in Florida courts ("Daubert Amendment"). In 2017, the Florida Supreme Court declined to adopt the Daubert Amendment "to the extent that it is procedural due to the constitutional concerns raised, which must be left for a proper case or controversy." Accordingly, for a time it was confusing whether Florida was a Daubert or Frye jurisdiction. In an October 2018 case, DeLisle v. Crane Co., the Florida Supreme Court detailed the philosophical and precedential support for Frye in Florida, definitively declared that the Daubert amendment unconstitutionally infringes on the rule-making authority of the court and, again, established Frye as Florida's standard. This has an immediate impact on pending motions and could be a basis for reconsideration where only Daubert was considered. A more complicated question, however, is whether the Daubert Amendment is void ab initio or whether the Crane decision is to be applied only prospectively.