



## Missouri Supreme Court Could Clarify That State Expert Evidence Rules Are Consistent with Amended Federal Rule 702

by Mary Massaron and Courtney Lavender

In *Hanshaw v. Crown Equip. Corp.*, the Missouri Supreme Court has an opportunity to clarify whether its evidentiary rule governing the admissibility of expert testimony in civil cases, §490.065.2, is consistent with Federal Rule of Evidence (“FRE”) 702, as understood through the 2023 amendments.<sup>1</sup> Since the 2017 amendment to §490.065, Missouri has been plagued with the same problems present in the United States District Courts before the 2023 amendments to Rule 702—misapplication of admissibility standards and erosion of the courts’ vital gatekeeping function. The Missouri Supreme Court now can correct those errors and uphold the rigorous gatekeeping standards of §490.065.2.

### Status of Expert Admissibility in Missouri

Section 490.065 was amended in 2017 to move away from a previously lenient expert admissibility standard. Before the amendment, §490.065 only required an expert to be qualified and for his or her knowledge to assist the trier of fact for his or her opinions to be admissible.<sup>2</sup> But now, that section also requires an expert’s testimony be “based on sufficient facts or data” and the “product of reliable principles and methods[,]” and that the expert “reliably applied the principles and methods to the facts of the case[.]”<sup>3</sup> The 2017 amendment conformed §490.065.2 to the pre-2023 version of Rule 702, imposing more stringent gatekeeping measures of expert evidence than its precursor.

But even after the 2017 amendment, Missouri courts have inconsistently applied §490.065.2. While some courts have rejected the notion that questions about an expert’s methodology go to the weight of expert testimony rather than admissibility, others have continued to rely on outdated caselaw, and have employed a more lenient standard than §490.065.2 requires.<sup>4</sup> The Missouri Court of Appeals still suggests that any “weakness” in the expert’s knowledge is “for the jury to consider in determining what weight to give the expert.”<sup>5</sup> The Missouri Supreme Court’s own post-amendment decision also reflects the continued confusion surrounding application of §490.065.2, underscoring the need for

<sup>1</sup> *Hanshaw v. Crown Equip. Corp.*, Case No. WD 86389, 2025 WL 967076, at \*1 (Mo. App. W.D. Apr. 1, 2025).

<sup>2</sup> See pre-amended §490.065.

<sup>3</sup> §490.065.2(1)(b)-(d).

<sup>4</sup> Compare *Huett v. Branson*, 675 S.W.3d 514, 524-525 (Mo. App. E.D. 2023) with *Watson v. Tuthill Corp.*, 672 S.W.3d 260, 266 (Mo. App. 2023).

<sup>5</sup> *Marchbank v. Chakrabarty*, 694 S.W.3d 457, 461 (Mo. App. E.D. 2024) (internal quotation marks and citation omitted).

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clarification.<sup>6</sup> While the Missouri Supreme Court's earlier opinion recognizes §490.065.2's current requirements, it nonetheless cited caselaw that predated and is at odds with the 2017 amendment to that section, as well as the 2023 amendments to Rule 702.

### **The *Hanshaw* Litigation**

In August 2018, the plaintiff, an individual, brought a products liability action against Crown Equipment Corporation arising from alleged injuries sustained while operating one of the defendant's forklifts. He retained an expert witness to opine that the forklift was defectively designed and unreasonably dangerous. The state trial court excluded the plaintiff's expert's testimony, finding that the expert was not qualified to offer opinions on alternative safety designs and defects in the design of the defendant's forklift.<sup>7</sup> The trial court also excluded the expert's opinions because the lack of testing rendered his methodology unsound, his testing methods were unreliable, and he failed to establish how the testing supported his opinions.<sup>8</sup> In doing so, the trial court prevented unreliable evidence from being presented at trial, upholding and enforcing its gatekeeping obligations.

The Court of Appeals disagreed with the trial court. Despite recognizing that §490.065.2 "adopts the Federal Rules of Evidence word-for-word[,]"<sup>9</sup> the Court of Appeals made the same errors as many federal courts before the recent amendments to Rule 702. The Court of Appeals rejected the state trial court's application of §490.065.2, instead relying on cases that relied on superseded principles to use a more lenient standard than §490.065.2 allows.<sup>10</sup> The Court of Appeals cited outdated caselaw to incorrectly emphasize that Rule 702 "reflect[ed] an attempt to liberalize rules governing the admission of expert testimony[,]"<sup>11</sup> despite the recent clarifications to that Rule. The Court of Appeals also stated that if an expert is qualified, "any weakness in the expert's knowledge is for the jury to consider in determining what weight to give the expert."<sup>12</sup> It rejected the defendant's request that the court rigorously employ its gatekeeping function, instead adhering to superseded principles that presume admissibility.

### **Implications**

The Court of Appeals' decision only emphasizes the need for further clarification on the application of §490.065.2. Given the current confusion over the principles governing admissibility of expert testimony within Missouri courts, correction and clarification from the Missouri Supreme Court is vital. The *Hanshaw* decision offers the first opportunity for the state Supreme Court to directly address the impact the 2023 amendments to Rule 702 have on interpretation and application of the amended §490.065.2. The decision is imminent, as oral arguments were on November 19, 2025. The Missouri Supreme Court's decision could offer a roadmap for other states who have not updated their analogous evidentiary rules to reflect the recent amendments to Rule 702.

<sup>6</sup> *Linton v. Carter*, 634 S.W.3d 623, 627 (Mo. 2021) (en banc).

<sup>7</sup> *Hanshaw*, 2025 WL 967076, at \*1.

<sup>8</sup> *Id.* at \*3.

<sup>9</sup> *Id.* at \*4.

<sup>10</sup> *Id.* at \*3-4.

<sup>11</sup> *Id.* at \*4 (internal quotation omitted).

<sup>12</sup> *Id.*, quoting *Linton*, 634 S.W.3d at 628 n. 5 (internal quotation marks omitted).