

Toxic Uniforms? Unreliable Experts

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The Seventh Circuit, in *Zurbriggen v. Twin Hill Acquisition, Inc.*¹, affirmed an Illinois trial court's exclusion of two plaintiff causation experts due to their unreliable methodology, and, in granting the defendants' summary judgment motion, limited plaintiffs' ability to use *res ipsa loquitor*² as an evidentiary shortcut in toxic tort cases.³ The decision reiterates the need for plaintiffs to rely on reliable scientific evidence and not circumstantial inference before reaching a jury.

Background: Toxic Uniforms?

In 2015, American Airlines contracted with Twin Hill Acquisition, Inc., to manufacture a new line of uniforms for around 65,000 employees. Before and after rolling out uniforms, American conducted wear tests and chemical analysis to ensure the uniforms were safe. One pre-release test led to complaints of irritation, so American retained Intertek for expert lab evaluation. Intertek found chemicals that theoretically could trigger allergic reactions or rashes, but opined the doses discovered were too low to produce either. Intertek also noted that some of the chemicals were common in perfumes which could have transferred onto the garments during the wear test. Later, Intertek performed a second test of unworn garments, which produced similar results.

After American released the new apparel, hundreds of employees complained of health problems ranging from itchy eyes and scratchy throats to severe allergic reactions. Some claimed they suffered reactions just from being near the Twin Hill uniforms. One month later, American reversed its rollout of the Twin Hill uniforms, and allowed its employees to wear their old uniforms or to purchase off-the-rack substitutes.

Following these complaints, the National Institute for Occupational Safety and Health (NIOSH) evaluated the uniforms. NIOSH concurred with Intertek's findings, concluding that the "results of the uniform samples testing did not reveal a pattern of chemical or metal contamination that would indicate a cause for the widespread reported symptoms."⁴ NIOSH also found it highly unlikely that the uniforms could cause proximity reactions.

Despite the tests, American terminated its contract with Twin Hill, and a group of employees filed a class-action lawsuit in federal court in the Northern District of Illinois, asserting claims for strict liability, negligence, battery, and intentional infliction of emotional distress. At the summary judgment stage, the defendants moved to exclude the testimony of plaintiffs' two causation expert witnesses, Drs. Arch Carson, a physician and toxicologist, and Peter Hauser, a textile chemist.⁵

Holding: Unreliable Experts

The Seventh Circuit adopted the district court's expert exclusion analysis wholesale,⁶ finding the two experts did not satisfy the threshold reliability requirements under Federal Rules of Evidence 702 and *Daubert*.⁷

First, Dr. Carson's analysis failed at "step zero" of the *Daubert* inquiry: he was unable to provide a testable biological theory of causation, he did not conduct independent testing, and he relied upon the sheer number of complaints to infer that the uniforms were responsible.⁸ The court found this reasoning unscientific and circular. The court also did not find Dr. Carson's use of the "Bradford Hill epidemiological framework" reliable, as he bypassed the framework's foundational requirement of establishing a statistically significant association, before inferring causation.⁹ Likewise, the court found that Dr. Hauser's testimony did not satisfy the reliability standard articulated in *Daubert*, as he: 1) failed to identify a chemical capable of triggering the symptoms, 2) failed to identify the dosage that would cause the

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symptoms, 3) failed to conduct his own independent testing, 4) failed to provide test results, peer-reviewed studies, or literature showing that the uniforms caused the symptoms, and 5) failed to rule out reasonable alternative explanations for the symptoms.¹⁰

Rather than repeating the district court's "first-rate opinion," the Seventh Circuit addressed the plaintiff's reliance on *res ipsa* to salvage their claims without expert testimony.¹¹ Specifically, the plaintiffs argued that under Illinois law they stated a claim under *res ipsa* by presenting evidence that the uniforms failed to perform in the manner reasonably expected in light of its nature and intended function; and, there was no evidence of abnormal use or reasonable secondary causes.¹² However, the court held that the *res ipsa* doctrine did not apply here, because 1) the doctrine does not apply to the inquiry as to whether the injury is the result of the condition of the product, and 2) the uniforms did not fail in the sense they did not break, collapse, or malfunction. The court distinguished, for example, an automotive brake failure, where the injury "speaks for itself," and the connection between the uniforms and a wide variety of symptoms. Such a lack of consistent symptoms made the cause not self-evident and brought reasonable secondary causes in issue.¹³

The court next turned to the plaintiffs' effort to apply the traditional doctrine of *res ipsa* in support of their negligent manufacturing claims. However, application of the doctrine in this respect also failed because Twin Hill had long since relinquished control over the uniforms. Multiple factories manufactured the uniforms. Intermediaries then shipped the uniforms across the world before others washed and wore them. Absent such control the court found *res ipsa* inapplicable under a negligence theory.¹⁴

Conclusion

The Seventh Circuit's decision reinforces the trial court's gatekeeping responsibilities under Rule 702 and *Daubert*, and that *res ipsa loquitor* cannot substitute for well-founded expert evidence in complex chemical exposure cases.

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¹ 2026 WL 1732248 (C.A.7 (Ill.), 2026).

² Latin for "the thing speaks for itself," *res ipsa loquitor* is a doctrine in tort law that allows plaintiffs to establish a rebuttable presumption of negligence using circumstantial evidence. The plaintiff generally must prove that the harm would not have occurred without the negligence of the defendant, and that the item that caused the harm was under the defendant's control. *See Id.* at *7.

³ *See Id.* at *5-7.

⁴ *Id.* at *1.

⁵ *See Zurbriggen v. Twin Hill Acquisition Company, Inc.*, 2025 WL 1092973 at *4 (N.D.Ill., 2025).

⁶ The District court found that the plaintiffs' symptoms were not unique to exposure to a toxic substance; the Intertek results found no detected substance which could trigger the plaintiffs' symptoms at low concentrations; several alternative explanations for plaintiffs' symptoms were not only plausible but endorsed by plaintiffs' treating physicians; and the actual rate of symptomology among exposed employees was unknown. *See Zurbriggen*, 2025 WL 1092973 at *23

⁷ Under *Daubert v. Merrill Dow Pharmaceuticals, Inc.*, courts weigh four non-exhaustive factors when analyzing the reliability of an expert's methodology: "(1) whether the proffered theory can be and has been tested; (2) whether the theory has been subjected to peer review; (3) whether the theory has been evaluated in light of potential rates of

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error; and (4) whether the theory has been accepted in the relevant scientific community.” *Dhillon v. Crown Controls Corp.*, 269 F.3d 865, 869 (7th Cir. 2001) (citing *Daubert*, 509 U.S. 579, 593-94 (1993)).

⁸See *Zurbriggen*, 2025 WL 1092973 at *12.

⁹ *Id.* at *18.

¹⁰ *Id.* at *20-21.

¹¹ *Zurbriggen*, 2026 WL 1732248 at *1.

¹² See *Tweedy v. Wright Ford Sales, Inc.*, 64 Ill. 2d 570, 357 N.E.2d 449, 452 (1976).

¹³ *Zurbriggen*, 2026 WL 1732248 at *6.

¹⁴ *Zurbriggen*, 2026 WL 1732248 at *7.