

## **Research Memorandum #86: Expert Techniques or Methodology for Reliability**

**Dilbert v. Monroe, 23 Maj. 3d. 471 (20XX-5):** “Before the jury should be allowed to hear expert testimony – whether of a scientist or a tradesperson – the court must act as ‘gatekeeper,’ ensuring that the testimony is based upon ‘reliable methodology.’ While this inquiry is a flexible one, not rigidly frozen in some litany of approved factors, we find that in making the determination of whether a particular expert’s methodology is sufficiently reliable to be considered by a jury, the court may wish to consider factors such as:

- Whether the technique or methodology can be or has been tested.
- Any known error rate for the technique or methodology.
- The existence of any accepted standards for applying the technique or methodology.
- Whether the technique or methodology has been published in peer-reviewed journals.
- Whether the technique or methodology is “generally accepted” in the relevant scientific community.
- Whether the expert used a technique or methodology he or she would use in his or her daily work.
- Whether any tests relied upon in the expert’s opinion were done in the course of the expert’s regular work, or were done solely in preparation for litigation.
- Whether governmental or private organizations utilize the results of the technique or methodology; whether insurance companies pay for it, etc.”