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Florida Supreme Court Rejects Adoption of Daubert Standard

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In *Richard Delisle v. Crane Co.*, ___ So. 3d. ___, No.: SC16-2182 (Fla., Oct. 15, 2018), the Florida Supreme Court rejected the Florida legislature's attempt to legislatively adopt the standard for admissibility of expert testimony set forth by the United States Supreme Court in *Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 509 U.S. 579 (1993), holding that the legislature's attempt to codify the *Daubert* standard in Section 90.702 of the Florida Evidence Code infringed upon the Florida Supreme Court's rulemaking authority and was unconstitutional. In so holding, the Court reaffirmed that the Frye standard set forth in *Frye v. United States*, 293 F. 1013 (D.C. Cir. 1923) (which requires an expert's opinion be generally accepted in the relevant scientific community and sufficiently reliable before it is admitted into evidence) remains the law in the State of Florida. Importantly, the Florida Supreme Court noted that the Florida legislature could overrule the Court's decision and legislatively adopt the *Daubert* standard so long as the legislature adopts the *Daubert* standard via a two-thirds vote in both the Florida House of Representatives and the Florida Senate. Given the upcoming election in November, it remains to be seen whether the Florida House of Representatives and the Florida Senate will take up the legislative adoption of the *Daubert* standard during the next legislative session.