

# The gatekeeper's dilemma: Daubert standard, economic experts and judicial reasoning

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## Abstract

We examine the relationship between scientific knowledge and the US legal system, with a focus on the exclusion of economic experts from trial following the application of the Daubert standard. We introduce a simple framework to understand and assess the role of judges as "gatekeepers", monitoring the admission of science in the courtroom. We show how judges face a crucial choice, namely, whether to limit Daubert assessment to the abstract reliability of the methods used by the expert witness or also to check whether the application of those methods was correct. Undesirable outcomes result from both choices, thereby giving rise to the "gatekeeper's dilemma." We illustrate the dilemma by analyzing in some detail two well-known cases of Daubert challenges to economic experts. Finally, we present reasons for the absence of straightforward solutions to the dilemma and for its likely endurance.