

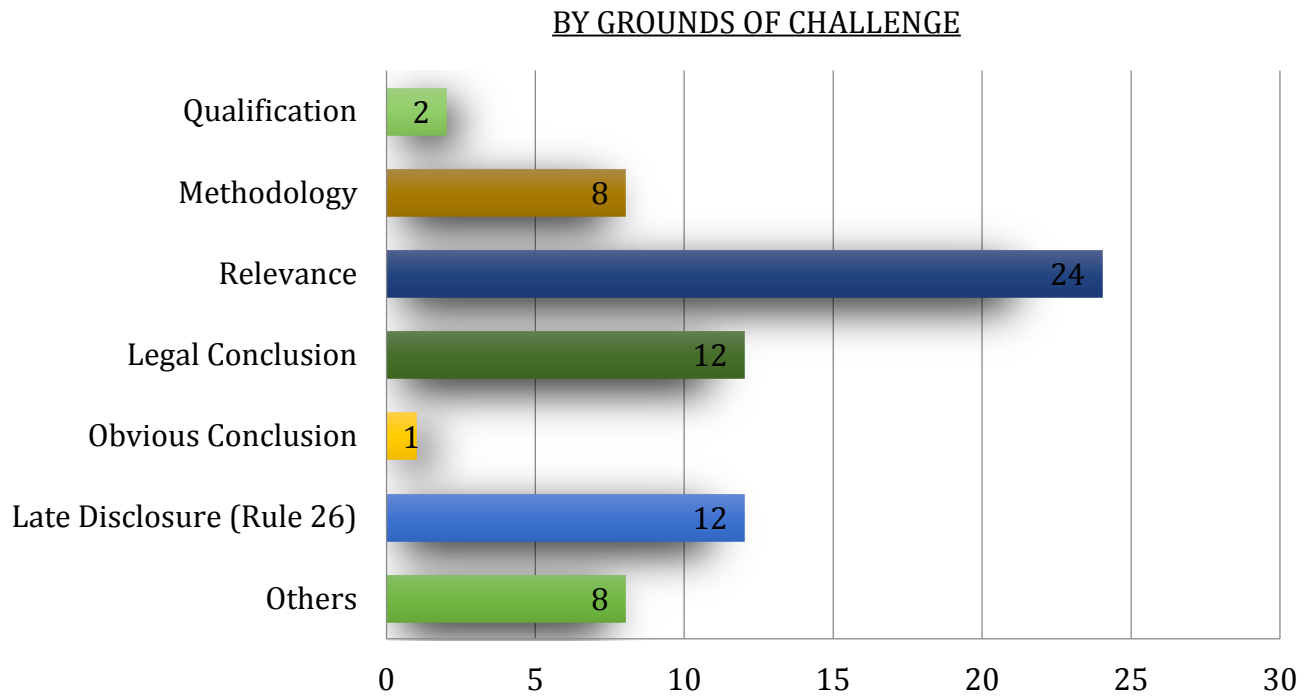
# EXPERT CHALLENGE STUDY™

DR. JOHN R. DOE, PH.D.

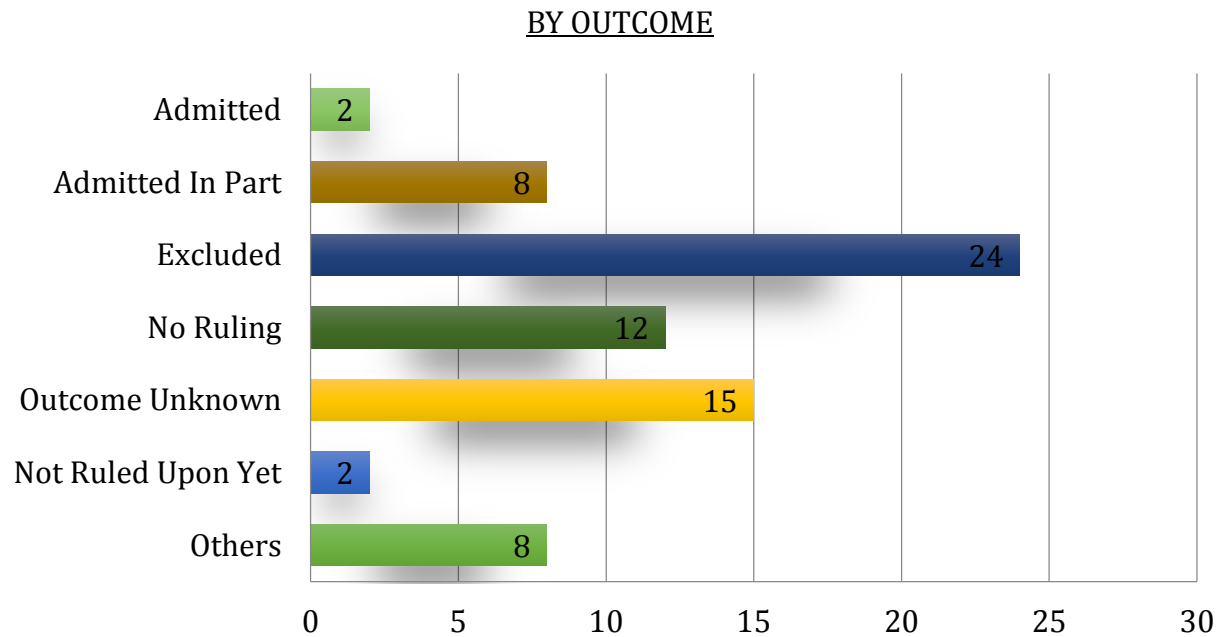
MARKETING EXPERT WITNESS

PREPARED ON JANUARY 1, 2020

## GROUNDS OF CHALLENGE



## CHALLENGE DISPOSITION



## EXPERT CHALLENGES

This section provides references to an expert who has been cited or mentioned in case opinions (reported and unreported), briefs (where available), jury verdicts, dockets, and expert challenges for both state and federal courts. It is again noted that not every jurisdiction and every court makes their case law available, and this profile is limited as such.

**The following search strings were run to ensure that all available cases and briefs are captured.**

1. ((John w/2 Doe) w/100 Expert and (Professor or Psycholog! Or "Marketing" or "Damages Expert" or Econom! or "Product Management" or Analys! or Licensing)

**The following legal databases were looked at during the preparation of this report:**

1. Federal and State Cases Combined, Jury Verdicts and Settlements, Federal Agency Decisions, State Agency Decisions
2. Court Documents – Trial Filings, Appellate Briefs, Trial Orders, Dockets
3. PACER was searched to retrieve original documents, if available.
4. Google Scholar – Legal Opinion Search

### **Availability of Supporting Documents**

In the course of research, many relevant documents such as opinions, briefs, pleadings, deposition transcripts, motions to exclude, rulings, expert reports, expert CVs etc. are retrieved from various sources. These documents are divided into three categories:

1. Available for Download for no additional cost (These are mainly opinions for which no cost is incurred on the part of EWP.)
2. Available for Instant Delivery (These are documents which can be delivered within one business day after payment.) To know the cost of these documents and to order, click on **(Request Document)** next to the document to send an email with the relevant document title and the Case Caption.
3. These are documents which cannot be procured electronically and can be obtained only from the court. These documents do not have **(Request Document)** mentioned against them. To know how these documents can be procured, please send a mail to **[info@expertwitnessprofiler.com](mailto:info@expertwitnessprofiler.com)** with the relevant document title and the Case Caption.

## DIRECT CHALLENGES

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This section includes reported, and numerous unreported cases from both state and federal jurisdictions where a “gatekeeping authority” has been cited or mentioned in a decision and the testifying expert’s methodology or qualifications have been challenged. Gatekeeping authority is defined as a seminal decision or rule of evidence that defines or interprets the standards for admissibility or expert witness testimony for the corresponding jurisdiction. This section includes results from over 165 gatekeeping authorities, including but not limited to Daubert v. Merrell Dow, Frye v. United States, and their progeny. Sources for unreported decisions include docket sheets, litigation reports, jury verdicts, and other online resources. Although care has been followed to gather this information, not all cases involving expert challenges are reported.

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### Testimony admitted in part and excluded in part.

<b>Case Source:</b>	Opinion, Trial Pleading, Docket
<b>Case Caption:</b>	<b>Brighton Collectibles, Inc. v. Renaissance Group</b>
<b>Docket Number:</b>	06-CV-1115, 306CV01584, 06 CV 01848
<b>Case Cite(s):</b>	2008 U.S. Dist. LEXIS 39707, 2006 Misc. Filings 1115; 2007 Misc. Filings LEXIS 4582; 2007 Misc. Filings LEXIS 4583, 2008 WL 2546408, 2008 WL 2546407, 2008 WL 2546426, 2008 WL 5455245, 2007 WL 7631415
<b>Grounds of Challenge:</b>	Methodology
<b>Area of Law:</b>	Trademark Law
<b>Jurisdiction:</b>	Federal
<b>State:</b>	California
<b>Court Name:</b>	United States District Court For The Southern District Of California
<b>Retained By:</b>	Plaintiff
<b>Plaintiff’s Attorney(s):</b>	Peter W Ross, Keith J Wesley , Marta B Almli , Dreier Stein Kahan Browne Woods George LLP, Beverly Hills, CA; Steven W Winton, Winton and Larson, San Diego, CA
<b>Defendant’s Attorney(s):</b>	Jessica Marie Helliwell, Michelle M McCliman, Wang, Hartmann, Gibbs & Cauley, P.C., Newport Beach, CA
<b>Judge(s):</b>	Marilyn L. Huff
<b>Date(s):</b>	04/01/2009

**Summary of Involvement:** Doe was retained by the Plaintiff to provide expert analysis and testimony on surveys conducted regarding the public perception of Plaintiff's products and/or the likelihood that consumers will confuse Defendant's goods with Plaintiff's goods in the instant case. Defendant filed a motion in limine to exclude his testimony. The Court concluded that the Plaintiff had failed to establish that his testimony regarding lost sales satisfied the FRE- Rule 702 standard and failed to demonstrate that his testimony was "based on sufficient facts or data" or that it was "the product of reliable principles and methods" that had been applied "reliably" to the facts of this case. The Court concluded that the challenged portion of his proposed testimony was too speculative to merit admission and accordingly granted Defendant's motion to preclude Plaintiff from presenting his testimony that Plaintiff lost one customer transaction for each Langdon Leather product sold by Defendant. However, the Court declined to exclude his testimony in its entirety.

**Supporting Document(s):**

1. Expert Report of John Doe ([Request Document](#))
2. Ralphs' Memorandum In Support Of Motion In Limine No. 4, To Exclude "Expert" Opinion Testimony ([Request Document](#))
3. Defendant's Memorandum Of Points And Authorities In Support Of Its Motion For Summary Judgment ([Request Document](#))
4. Order Regarding Motions In Limine: Finding As Moot Motion In Limine ([Request Document](#))
5. Order Regarding Motions In Limine: Finding As Moot Motion In Limine ([Request Document](#))
6. Brighton's Notice Of Motion To Amend Judgment To Include A Permanent Injunction; Memorandum Of Points And Authorities; Declaration In Support Thereof

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**Trial court did not allow the expert to testify; affirmed.**

**Case Source:** Brief Bank

**Case Caption:** [Loughert vs. The Reagan Hospital And Medical Center](#)

**Docket Number:** 02588EDA9942

**Case Cite(s):** 1999 WL 033887609 (Pa.Super.); 1999 WL 033888608 (Pa.Super.)

**Grounds of Challenge:** Obvious Conclusion

**Area of Law:** Insurance Law

**Jurisdiction:** State

**State:** Pennsylvania

**Court Name:** Superior Court of Pennsylvania

**Retained By:** Plaintiff

**Plaintiff's Attorney(s):** Derek R. Lassiter, Klone & Specter, P.C.

**Defendant's Attorney(s):** Edward L. Stork, Esquire, Roland & Schlegel, P.C.

**Judge(s):** Marilyn L. Huff

**Date(s):** 04/01/2009

**Summary of Involvement:** Doe was retained by the Plaintiff as an expert. On appeal, the Plaintiff argued that the trial court erred in refusing to allow Doe to testify to the non-effectiveness of unsigned insurance policy. However, the judgment was affirmed.

**Supporting Document(s):**

1. Brief for Appellants ([Request Document](#))
2. Brief of Appellee ([Request Document](#))

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**Testimony unpersuasive.**

**Case Source:** Opinion, Trial Order, Brief Bank

**Case Caption:** [Jenkins v. McCarthy](#)

**Docket Number:** B297993, BC 309975

**Case Cite(s):** 2009 Cal. App. Unpub. Lexis 9777, 2005 WL 7237970, 2005 WL 7237259, 2009 WL 5707527, 2009 WL 5555529

**Grounds of Challenge:** Methodology

**Area of Law:** Business Laws

**Jurisdiction:** State

**State:** New York

**Court Name:** Court Of Appeal Of New York, Second Appellate District, Division Two

**Retained By:** Defendant

**Plaintiff's Attorney(s):** Not Applicable

**Defendant's Attorney(s):** Winston & Strawn, Rebecca Lawlor Calkins and Erin R. Ranahan

**Judge(s):** Ashmann-Gerst, J.; Boren, P. J., Doi Todd, J. concurred

**Date(s):** 02/27/2009

**Summary of Involvement:** Doe was retained by the Defendant as an expert in the instant case. The Court observed that Doe had admitted in his testimony that Plaintiff had failed to conduct any independent work and relied on the Defendant's testimony. The Court found his testimony unpersuasive.

**Supporting Document(s):**

1. Opinion dated 27<sup>th</sup> February 2009 ([Request Document](#))
2. Statement of Decision ([Request Document](#))
3. Expert Report of John Doe ([Request Document](#))

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**Testimony was improperly excluded at trial; outcome of appeal is unknown.**

**Case Source:** Brief Bank

**Case Caption:** [Investments v. Del Curto](#)

**Docket Number:** B5555555

**Case Cite(s):** 2000 WL 555555, 2000 WL 111111, 1997 WL 222222

**Grounds of Challenge:** Qualification

**Area of Law:** Business Law

**Jurisdiction:** State

**State:** New York

**Court Name:** Court of Appeal, Second District, Division 5, New York

**Retained By:** Defendant

**Plaintiff's Attorney(s):** David M. Sine, Sanborn & Sine

**Defendant's Attorney(s):** Neil Papiani

**Judge(s):** Honorable Reginald A. Dunn

**Date(s):** 02/05/1987

**Summary of Involvement:** Doe was retained by the Defendant as an expert in valuation. In the instant case, Defendant argued that the trial court had improperly excluded Doe's testimony. The outcome of appeal is unknown.

**Supporting Document(s):**

1. Appellants' Supplemental Brief Regarding Prejudicial Effect of Trial Court's Exclusion of Expert ([Request Document](#))
2. Appellants' Reply Brief and Opposition to Respondents Cross-Appeal ([Request Document](#))
3. Respondents' Reply Brief and Cross-Appeal ([Request Document](#))

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**Testimony rejected by the trial court; outcome of appeal is unknown.**

**Case Source:** Brief Bank

**Case Caption:** [Wetzel v. Gratzner](#)

**Docket Number:** G0666666

**Case Cite(s):** 2002 WL 555555

**Grounds of Challenge:** Methodology



**Area of Law:** Labour Law

**Jurisdiction:** State

**State:** New York

**Court Name:** Court of Appeal, Fourth District, Division 3, New York

**Retained By:** Not Applicable

**Plaintiff's Attorney(s):** Not Applicable

**Defendant's Attorney(s):** Not Applicable

**Judge(s):** Honorable Kim G. Dunning

**Date(s):** 09/22/2002

**Summary of Involvement:** Doe was an independent appraiser in the instant case. Doe prepared a report on fair value which the trial court had rejected. The outcome of appeal is unknown.

**Supporting Document(s):** 1. Appellant's Opening Brief ([Request Document](#))

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**Testimony disregarded by arbitrator, affirmed at trial; outcome unknown on appeal.**

**Case Source:** Brief Bank

**Case Caption:** [Todisco v. Cable](#)

**Docket Number:** G055555

**Case Cite(s):** 2000 WL 555555, 2000 WL 111111, 1997 WL 222222

**Grounds of Challenge:** Qualification

**Area of Law:** Negligence

**Jurisdiction:** State

**State:** New York

**Court Name:** Court of Appeal, Fourth District, Division 3, New York

*Expert Challenge Study on Dr. John R. Doe, Ph.D.*

**Retained By:** Defendant

**Plaintiff's Attorney(s):** David M. Sine, Sanborn & Sine

**Defendant's Attorney(s):** Sylvia L. Paoli #55555, Paoli & Paoli, Inc.

**Judge(s):** Hon. Raymond Ikola

**Date(s):** 07/29/2000

**Summary of Involvement:** Doe was retained by the Defendant as an expert in accountancy. The arbitrator found his testimony credible but disregarded it at trial. The outcome of the appeal is unknown.

**Supporting Document(s):**

1. Appellant's Reply Brief ([Request Document](#))
2. Respondent's Brief ([Request Document](#))
3. Appellant's Opening Brief ([Request Document](#))

## INDIRECT CHALLENGES

This section includes reported, and numerous unreported cases from both state and federal jurisdictions where the expert's testimony has been cited or mentioned in a decision and the testifying expert's testimony has been offered in support of, in response to, or in opposition to motion for summary judgment, class certification, preliminary injunction, motion for a new trial or judgment notwithstanding the verdict. Sources for unreported decisions include docket sheets, litigation reports, jury verdicts, and other online resources. Although care has been followed to gather this information, not all cases involving such indirect expert challenges are reported.

### Testimony filed in support of motion for class certification; outcome unknown.

<b>Case Source:</b>	Docket
<b>Case Caption:</b>	<a href="#">Loughert v. Demetrius</a>
<b>Docket Number:</b>	6:93cv254
<b>Case Cite(s):</b>	Not Applicable
<b>Grounds of Challenge:</b>	Others
<b>Area of Law:</b>	Insurance Law
<b>Jurisdiction:</b>	Federal
<b>State:</b>	Texas
<b>Court Name:</b>	US District Court for the Western District of Texas
<b>Retained By:</b>	Plaintiff
<b>Plaintiff's Attorney(s):</b>	John P. Germani, Richard D. Martemucci And Germani Martemucci Riggle
<b>Defendant's Attorney(s):</b>	Elizabeth A. Flynn, James F. Tucker, J. Tucker LLP
<b>Judge(s):</b>	S. Gonzalez-Villamil
<b>Date(s):</b>	08/01/2012
<b>Summary of Involvement:</b>	Doe was retained by the Plaintiff as an expert in the instant case. Plaintiff filed his testimony in support of its motion for class certification. The outcome of Plaintiff's motion for class certification is unknown.
<b>Supporting Document(s):</b>	1. Testimony of John Doe in support of Plaintiff's Motion for

Class Certification ([Request Document](#))

2. Reply and Response to Plaintiff's Motion for Class Certification by Doe ([Request Document](#))

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**Testimony insufficient to avoid grant of motion for preliminary injunction.**

<b>Case Source:</b>	Opinion, Trial Order
<b>Case Caption:</b>	<a href="#">Mercy v. McCarthy</a>
<b>Docket Number:</b>	B297955, BC 309970
<b>Case Cite(s):</b>	2009 Cal. App. Unpub. Lexis 9873; 2005 WL 7237955
<b>Grounds of Challenge:</b>	Others
<b>Area of Law:</b>	Products Liability
<b>Jurisdiction:</b>	State
<b>State:</b>	New York
<b>Court Name:</b>	Court Of Appeal Of New York, Second Appellate District, Division Two
<b>Retained By:</b>	Defendant
<b>Plaintiff's Attorney(s):</b>	David Caspi
<b>Defendant's Attorney(s):</b>	Robert McDonald
<b>Judge(s):</b>	William B. Stock
<b>Date(s):</b>	02/22/2002
<b>Summary of Involvement:</b>	Doe was retained by the Defendant as an expert in the instant case. Defendant filed his testimony in opposition to Plaintiff's motion for preliminary injunction. The Court granted Plaintiff's motion for preliminary injunction.
<b>Supporting Document(s):</b>	<ol style="list-style-type: none"><li>1. Opinion dated February 22, 2002 (<a href="#">Request Document</a>)</li><li>2. Statement of Decision (<a href="#">Request Document</a>)</li></ol>

3. Expert Report of John Doe ([Request Document](#))

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**Testimony sufficient to win grant of motion for judgment notwithstanding the verdict at trial; outcome of appeal is unknown.**

<b>Case Source:</b>	Brief Bank
<b>Case Caption:</b>	<a href="#">Abreu v. CHP Corp.</a>
<b>Docket Number:</b>	113660-06
<b>Case Cite(s):</b>	2010 WL 9615418; 2010 WL 9615423; 2010 WL 8425185
<b>Grounds of Challenge:</b>	Others
<b>Area of Law:</b>	Negligence
<b>Jurisdiction:</b>	State
<b>State:</b>	New York
<b>Court Name:</b>	Court of Appeal, Fourth District, Division 3, New York
<b>Retained By:</b>	Defendant
<b>Plaintiff's Attorney(s):</b>	Sandra L. Flushman
<b>Defendant's Attorney(s):</b>	Kenneth L. Thompson
<b>Judge(s):</b>	Robert Wooten
<b>Date(s):</b>	07/29/2001
<b>Summary of Involvement:</b>	Doe was retained by the Defendant as an expert in accountancy. According to the "Appellant's Reply Brief" it was stated that Defendant had cited his testimony in support of its motion for judgment notwithstanding the verdict. The trial court had granted Defendant's motion for judgment notwithstanding the verdict. The outcome of appeal is unknown.
<b>Supporting Document(s):</b>	<ol style="list-style-type: none"><li>1. Appellant's Reply Brief (<a href="#">Request Document</a>)</li><li>2. Respondent's Brief (<a href="#">Request Document</a>)</li></ol>

3. Appellant's Opening Brief ([Request Document](#))

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**Testimony sufficient to win grant of motion for summary judgment.**

<b>Case Source:</b>	Opinion, Trial Pleading
<b>Case Caption:</b>	<a href="#">Lee v. Hendrick</a>
<b>Docket Number:</b>	3:95cv1284
<b>Case Cite(s):</b>	2007 Misc. Filings LEXIS 4545; 2008 WL 2546302; 2008 WL 2546409
<b>Grounds of Challenge:</b>	Others
<b>Area of Law:</b>	Personal Injury
<b>Jurisdiction:</b>	Federal
<b>State:</b>	New York
<b>Court Name:</b>	United States District Court For The Southern District Of New York
<b>Retained By:</b>	Defendant
<b>Plaintiff's Attorney(s):</b>	Soberson Halley, Robert & Soberson, LLP, New York
<b>Defendant's Attorney(s):</b>	Marina L. Kaufman, Robert K. Luther
<b>Judge(s):</b>	Jill Barschi
<b>Date(s):</b>	04/01/2014
<b>Summary of Involvement:</b>	Doe was retained by the Defendant to provide expert analysis and testimony on surveys conducted regarding the public perception of Plaintiff's products and/or the likelihood that consumers will confuse Defendant's goods with Plaintiff's goods in the instant case. Defendant filed his testimony in support of its motion for summary judgment. The Court granted Defendant's motion for summary judgment.

- Supporting Document(s):**
1. Opinion dated April 01, 2014 ([Request Document](#))
  2. Ralphs' Memorandum In Support Of Motion For Summary Judgment ([Request Document](#))
  3. Defendant's Memorandum Of Points And Authorities In Support Of Its Motion For Summary Judgment ([Request Document](#))