

RECEIVED
8/05/05

05-CV-F



"John L. Runft"
<jlrunft@Runftlaw.com>
08/04/2005 05:12 PM

To <rules_comments@ao.uscourts.gov>
cc
bcc
Subject FRCP - Need for new Rule re Motions in Limine

Dear Committee Members,

I am sure I present nothing new in urging a **new rule governing motions in limine**. The growth of importance of these motions is a direct outgrowth of the application by the courts of the "Daubert Rule" and its progeny.

These motions have become the "portal" or "gauntlet" through which most expert reports must pass. They have become the frequent focal point of litigation based on expert testimony. Not only do they often take up a great deal of time, but the scheduling of subsequent motions to amend the experts' reports and the follow-on motions in limine regarding the amended reports (sometimes two or even three iterations of this process) serve to throw the scheduling orders out of whack – often to the great frustration of both court and counsel. Without any proof other than anecdotal comment, I get the strong impression that a substantial number of complex causes of action are frustrated by the current process involving these motions and consequently never have "their day in court."

I suggest that this matter of motions in limine is the elephant in the Rules room that is being ignored.

Respectfully,

John L. Runft
Runft & Steele Law Offices, PLLC
1020 W. Main St., Suite 400
Boise, Idaho 83702
Tel. (208) 333-8506
fax (208) 343-3246
E-mail: jlrunft@runftlaw.com