

News Release

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Georgia Chamber Hails State Supreme Court Decision Upholding Expert Witness Language in 2005 Tort Reform Act

Georgia Chamber of Commerce President George Israel applauded today's decision by the Georgia Supreme Court upholding the expert witness provisions in SB 3 (Tort Reform Act of 2005). He said it reflected common sense and fairness and was a victory for all Georgians interested in a quality judicial system.

In a 5-2 ruling issued Monday morning, the court declared a lower court's ruling was "mistaken" when it ruled the state's expert witness law unconstitutional. The case was Mason v. Home Depot, S07A1486.

The justices were ruling on a part of [SB 3](#), signed into law by Gov. Perdue on February 16, 2005. It dealt with the standards of qualification for "expert testimony" in civil cases. Sometimes referred to as the *Daubert* rule, named for a 1993 U.S. Supreme Court decision, Georgia law differs in some ways from the federal standards.

An attorney for the plaintiffs, Ned Miltenberg, of the Washington-based Center for Constitutional Litigation, had argued before the state's highest court that the expert witness rule violated the state constitution's promises of equal protection and right to trial by jury. "The court clearly and emphatically differed," Israel said, adding that, "the expert witness provisions of SB 3 are essential to all who desire fairness and an impartial judiciary. The standard established by the law merely requires an expert testifying in a civil trial have some degree of competency and qualification to testify."

The law outlines the qualifications by which an expert may be considered qualified to testify, "knowledge, skill, experience, training, or education," and relies on precedent set by the U.S. Supreme Court in Daubert v. Merrell Dow Pharmaceuticals, Inc., 509 U.S. 579 (1993); General Electric Co. v. Joiner, 522 U.S. 136 (1997); Kumho Tire Co. Ltd. v. Carmichael, 526 U.S. 137 (1999); and other cases in federal courts applying the standards announced by the United States Supreme Court in these cases.

Frank M. Lowrey, IV, of Bondurant, Mixson & Elmore argued for the defendants, The Home Depot and Flecto Company, a floor coating manufacturer.

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