IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

LAUREN KISS,	)	
	)	
Plaintiff,	)	
v.	)	
	)	
PAUL LATHROP,	)	C.A. No. N24C-05-080 CLS
	)	
Defendant.	)	
	)	
	)	
	)	
	)	

Date Submitted: January 13, 2026
Date Decided: April 21, 2026

Upon Consideration of the Defendant's Daubert Motion, **GRANTED.**

MEMORANDUM OPINION

Michael P. Minuti, Esquire of McCann Dillon Jaffe and Lamb, *Attorney for Plaintiff*.

Kenneth M. Doss, Esquire of Casarino Christman Shalk Ransom & Doss, P.A., *Attorney for Defendant*.

SCOTT, J.

Before the Court is Paul Lathrop's ("Defendant") Daubert Motion to exclude evidence pertaining to Lauren Kiss's ("Plaintiff") bike expert, Sam Davis ("Davis"). For the following reasons, Defendant's Daubert Motion is **GRANTED**.

FACTUAL BACKGROUND AND PROCEDURAL HISTORY

By way of background, Defendant runs a business out of his home in Delaware buying and selling used bikes. In April 2022, Plaintiff purchased a used Cannondale Synapse bike (the "bike"). Before Plaintiff took possession of the bike, Defendant replaced and adjusted the seat post to ensure it was the appropriate height for Plaintiff. Three months later, on July 11 2022, while on her typical biking route, Plaintiff sustained injuries after the seat and seat post detached from the bike. On May 8, 2024, Plaintiff filed a complaint asserting claims against Defendant for negligence and strict product liability (applying Pennsylvania law) stemming from the July 2022 bike accident.[1]

Plaintiff offered Davis as a bike expert to opine as to the cause of the accident. Davis is the owner and mechanic of a bike shop with over 20 years of experience.[2] Based on Davis's qualifications, review of litigation materials, a review of the recovered components from the bike, and a site visit to Defendant's bike workshop, Davis concluded that Defendant caused the accident.[3] Specifically, Davis opines

[1] *See generally* Compl., D.I. 1.
[2] Def.'s Daubert Mot., D.I. 44, Ex. A.
[3] *Id.*

that when Defendant replaced the seat of the bike, he overtightened the clamp bolt and nut that secures the seat to compensate for saddle movement resulting from wear to the seat components, which then caused the seat and seat post to detach and result in injuries to Plaintiff.[4]

On November 10, 2025, Defendant filed a Daubert Motion to preclude Davis as an expert.[5] Plaintiff responded in opposition on December 31, 2025.[6] The Court held oral argument on January 13, 2026.

STANDARD OF REVIEW

"D.R.E. 702 governs the admissibility of expert opinion testimony."[7] A party relying on expert testimony must meet the following requirements to be admissible: sufficiency and reliability.[8] The rule states that:

> A witness who is qualified as an expert by knowledge, skill, experience, training, or education may testify in the form of an opinion or otherwise if:
>
> (a) the expert's scientific, technical, or other specialized knowledge will help the trier of fact to understand the evidence or to determine a fact in issue;
> (b) the testimony is based on sufficient facts or data;
> (c) the testimony is the product of reliable principles and methods; and
> (d) the expert has reliably applied the principles and methods to the facts of the case.[9]

---

[4] *Id.*
[5] *See generally* Def.'s Daubert Mot.
[6] Pl.'s Resp. to Def.'s Daubert Mot., D.I. 49 ("Pl.'s Resp.").
[7] *In re Zantac (Ranitidine) Litig.*, 342 A.3d 1131, 1143 (Del. 2025) [hereinafter "*Zantac*"].
[8] *Id.*
[9] D.R.E. 702.

An expert opinion must be based on sufficient facts or data.[10] Generally, "the factual basis of an expert opinion goes to the credibility of the testimony, not the admissibility, and it is for the opposing party to challenge the factual basis of the expert opinion on cross-examination."[11] "When the expert's opinion is not based upon an understanding of the fundamental facts of the case, however, it can provide no assistance to the jury and such testimony must be excluded."[12]

Reliability of an expert opinion can be determined by: "(1) whether the expert opinion testimony 'can be (and has been) tested'; (2) whether it 'has been subjected to peer review and publication'; (3) its 'known or potential rate of error'; and (4) whether it has attracted widespread acceptance within the scientific community."[13] "The inquiry is a flexible one, and its focus must be solely on principles and methodology, not on the conclusions they generate."[14] "The party seeking to introduce the expert testimony bears the burden of establishing its admissibility by a preponderance of the evidence."[15]

---

[10] D.R.E. 702(b); *see also Zantac*, 342 A.3d at 1143.
[11] *Perry v. Berkley*, 996 A.2d 1262, 1271 (Del. 2010) (citing *Porter v. Turner*, 954 A.2d 308, 313 (Del. 2008); *Minn. Supply Co. v. Raymond Corp.*, 472 F.3d 524, 544 (8th Cir. 2006)).
[12] *Id.* (citing *Minn. Supply Co.*, 524 F.3d at 544).
[13] *Zantac*, 342 A.3d at 1144 (quoting *Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 509 U.S. 579, 593–94 (1993)) (interpreting D.R.E. 702 as consistent with F.R.E. 702).
[14] *Id.* (quoting *Daubert*, 509 U.S. at 594).
[15] *Id.* (quoting *Bowen v. E.I. DuPont de Nemours & Co.*, 906 A.2d 787, 795 (Del. 2006)) (internal quotation marks omitted).

Recently, the Delaware Supreme Court's decision in *Zantac* clarified the standard of D.R.E. 702 and the role of the trial court in determining the admissibility of expert testimony.[16] The *Zantac* Court concluded that the trial court must follow not only Delaware law, but also "pertinent federal law"—i.e., D.R.E. 702's counterpart, F.R.E. 702.[17] As such, *Daubert* and its progeny cannot be read as applying a "'liberal thrust' or presumption favoring admissibility" of expert opinions.[18] In fact, it "is inconsistent with a trial court's gatekeeping function" to find that arguments regarding the sufficiency and reliability of an expert opinion go to weight instead of admissibility.[19] Rather, a trial court must exercise its gatekeeping function rigorously to prevent unreliable information from reaching the jury. [20]

ANALYSIS

Defendant argues that Davis's opinion "fails the threshold tests of reliability and relevance because it does not rest on a proper factual foundation or sound methodology" for purposes of a negligence causation opinion.[21] On the other hand, Plaintiff avers that Defendant's "criticisms go to the weight of the testimony, not its

---

[16] *Zantac*, 342 A.3d at 1143.
[17] *Id.* at 1148.
[18] *Id.* at 1147.
[19] *Id.* at 1149.
[20] *Id.* at 1150.
[21] Def.'s Daubert Mot. ¶ 5.

admissibility," which is better reserved for cross-examination.[22] The Court concludes that Plaintiff fails to establish by a preponderance of the evidence that Davis's opinion is sufficient and reliable under D.R.E. 702.

Contrary to Plaintiff's assertions otherwise, Defendant's sufficiency arguments do not go to the weight of Davis's testimony, but to the admissibility. First, the *Zantac* court specifically instructed trial courts to exercise its gatekeeping role rigorously to determine whether proffered expert testimony meets threshold requirements. Second, Defendant is not challenging Davis's skills or knowledge in tying the facts of the case to the opinion he plans to give.[23] Instead, Defendant is challenging the factual foundation upon which Davis rendered his opinion.

As evidenced from Davis's report and deposition testimony, his opinion regarding Defendant's fault is "founded upon assumptions that have [little to] no basis in fact[.]"[24] Davis admits in his report and during his deposition that the clamp bolt and nut were neither recovered nor inspected.[25] While Davis provided a picture of a clamp bolt and nut "from a random seat post," Davis stated in his deposition that he does not know the type and specifications of the sample clamp bolt or of the actual clamp bolt from the bike.[26]

---

[22] Pl.'s Resp. ¶ 12.
[23] *See Perry*, 996 A.2d at 1270.
[24] *Id.* at 1271 (citing *Vasquez v. Mabini*, 606 S.E.2d 809, 811 (Va. 2005)) (internal quotation marks omitted).
[25] Def.'s Daubert Mot., Ex. B, Part I at 20, Ex. A at 2.
[26] Def.'s Daubert Mot., Ex. B, Part I at 20–21.

To continue, not only was the clamp bolt never recovered nor inspected, but Davis also does not know when the wear on the seat cradle and mating bits occurred, which is the only basis for his opinion that the missing clamp bolt caused the seat to detach.[27] Further, Davis does not know whether the clamp bolt was loose or broken and explained that he "think[s] it broke because [the metal] was fatigued."[28] Davis also had no basis or objective evidence showing that Defendant failed to follow the standard of care regarding the tightening of the seat bolt, such as Defendant's application of specified torque requirements and the torque wrench used to tighten the clamp bolt and nut to the seat.[29] According to Davis, there also was no problem with the bottom of the seat post and the ring that allows the seat height to be adjusted.[30]

The issue of whether Defendant's actions in replacing the seat post caused Plaintiff's injuries is dispositive here. Davis testified in his deposition that many of his conclusions are based on assumptions. Without the clamp bolt, without knowledge of when the wear on the cradle and mating bits occurred, and without any evidence that Defendant overtightened the clamp bolt, the only conclusion the Court can draw from Davis's opinion is that Davis is *presuming* that Defendant

---

[27] *Id.* at 23, 28.
[28] *Id.* at 24.
[29] *Id.* at 27.
[30] *Id.* at 28.

overtightened the clamp bolt to compensate for the wear on the cradle and mating bits. Even though Davis observed the wear on the cradle and mating bits, the remaining facts upon which Davis's opinion rests are too attenuated and lack a foundation such that the opinion is insufficient under D.R.E. 702.

Plaintiff misinterprets any issues raised about the missing clamp bolt and nut. In the Court's view, Defendant is arguing that because the clamp bolt and nut were never recovered, the timing of the wear on the cradle and mating bits is essential to the admissibility of Davis's causation opinion.[31] Consequently, Defendant is not seeking to exclude Davis's opinion solely because the clamp bolt is missing; it is that without it, the factual predicate upon which Davis's opinion is based is insufficient. Additionally, the Court finds that *Skelton v. Action Traders, Limited*[32] is inapplicable. The Court agrees that the facts are analogous to the case here but finds that the District Court of Georgia's analysis is inconsistent with *Zantac* and the court's gatekeeping role under Delaware law and *Daubert*.[33]

The Court finds that Plaintiff fails to provide any method that supports Davis's opinion. "An opinion cannot be based simply on the *ipse dixit* of the expert."[34] Davis's qualifications and experience, on their own, are inadequate given that Davis

---

[31] *See generally* Def.'s Daubert Mot.
[32] 662 F. Supp. 3d 1259 (N.D. Ga. 2023).
[33] *See id.* at 1267.
[34] *Minner v. American Mortgage and Guarantee Co.*, 791 A.2d 826, 851 (Del. 2000) (citing *General Electric Co. v. Joiner*, 522 U.S. 136, 146 (1977)).

has only observed an overtightened clamp bolt once in over 20 years of experience[35] and otherwise has an insufficient basis for the causation opinion. Accordingly, the report and deposition testimony do not meet the sufficiency and reliability requirements for admissibility. In sum, Plaintiff does not prove by a preponderance of the evidence that Davis's opinion is admissible under D.R.E. 702.

CONCLUSION

For the foregoing reasons, Defendant's Daubert Motion is **GRANTED**.

IT IS SO ORDERED.

/s/ Calvin Scott
Judge Calvin L. Scott, Jr.

[35] Def.'s Daubert Mot., Ex. B, Part I at 26.