

Dear Colleagues:

As you all know, motions to exclude expert testimony on Daubert grounds have become commonplace. These motions are filed routinely as an element of pre-trial adversarial skirmishing. Occasionally, significant issues are raised with respect to the admissibility of expert witness testimony. Exclusion of testimony on Daubert grounds creates reputational risk for the expert and risk management issues for BRG.

Particularly given the number of senior professionals who have joined BRG over the last 18 months, executive leadership determined that it was appropriate to communicate BRG's position with respect to the internal reporting of motions to exclude expert testimony on Daubert grounds:

- (i) BRG encourages prompt reporting to the legal team of all motions seeking to exclude BRG expert work on Daubert grounds (reporting should be directed to our deputy general counsel, Kate Koppenhoefer, who is available to offer support and counsel on Daubert motions, including liaising with outside counsel in the opposition to such motions).
- (ii) BRG requires prompt reporting of all adverse Daubert rulings to assess firm risk and reputational risk, and to encourage proactive disclosure as set forth below.
- (iii) Experts should consider making proactive disclosure to counsel regarding adverse Daubert rulings during the retention interview process rather than risk counsel uncovering adverse Daubert rulings in the course of its own vetting process.

Should you have any questions or concerns regarding the foregoing Daubert protocol, please contact [Kate Koppenhoefer](#) or me.

Eric Miller | Senior Vice President & General Counsel