

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
WEST VIRGINIA, HUNTINGTON DIVISION

Douglas Looney and Tammy Looney v. North American Services
Group, LLC d/b/a Evergreen North American Industrial Services

Looney · No. 3:24-0467 · Decided April 7, 2026

SUMMARY

The United States District Court for the Southern District of West Virginia ruled on Plaintiffs’ motion to exclude the testimony and opinions of Defendant’s expert, Jason Henthorn, under Federal Rule of Evidence 702 and Daubert. The court allowed opinions concerning workplace safety risks, applicable policies, and industry standards, but excluded opinions regarding the employer’s knowledge of the hazard and whether the hazard should have been obvious to the injured employee.

CASE DETAILS

COURT	United States District Court for the Southern District of West Virginia, Huntington Division
WRITING FOR THE COURT	Robert C. Chambers
JURISDICTION	United States District Court for the Southern District of West Virginia, Huntington Division
DECIDED	April 7, 2026
DOCKET	3:24-0467
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiffs moved under Federal Rule of Evidence 702 and Daubert to exclude the testimony and opinions of defendant's expert Jason Henthorn. The court granted the motion in part and denied it in part.
STANDARD OF REVIEW	The court applied Federal Rule of Evidence 702 and assessed whether the proposed expert testimony was qualified, helpful to the trier of fact, based on sufficient facts or data, the product of reliable principles and methods, and reliably applied to the facts.
PRECEDENTIAL VALUE	unpublished
PARTIES	Douglas Looney, Tammy Looney v. North American Services Group, LLC d/b/a Evergreen North American Industrial Services

TOPICS

expert testimony daubert standard evidence personal injury

PRACTICE AREAS

evidence personal injury torts

QUESTIONS PRESENTED

1. Whether Henthorn's opinion that Looney placed himself in an area of increased risk was admissible under Federal Rule of Evidence 702.
2. Whether Henthorn's opinion concerning Evergreen's vacuum-truck policies and procedures was admissible under Rule 702.
3. Whether Henthorn's opinion that Evergreen lacked knowledge of a dangerous condition or practice was sufficiently reliable and factually supported under Rule 702.
4. Whether Henthorn's opinion that the falling-debris hazard should have been obvious to Looney was reliable under Rule 702.
5. Whether Henthorn's opinion that Evergreen did not violate a specific industry standard was admissible under Rule 702.

HOLDINGS

1. The opinion was admissible because Henthorn's relevant experience with similar vacuum trucks, together with other information identified in the record, provided a sufficient foundation for reliable and helpful experiential expert testimony.
2. The opinion that Evergreen possessed policies and procedures, including its Vacuum Truck Safety Program, was admissible.
3. The opinion was inadmissible because it lacked a factual basis, was not explained through Henthorn's analysis, education, or experience, and was contradicted by record evidence.
4. The opinion was inadmissible because Henthorn lacked sufficient knowledge concerning the material in the truck to reliably determine whether the hazard should have been obvious to Looney.
5. The opinion was admissible because Henthorn's industrial-hygiene experience qualified him to identify applicable industry standards and explain why, in his view, those standards did not apply or were not violated.

KEY QUOTATIONS

“ “[H]elpfulness to the trier of fact is [the] ‘touchstone’ ” of the Rule 702 inquiry.”

“ But this does not lead to a conclusion that “experience alone—or experience in conjunction with other knowledge, skill, training or education—may not provide a sufficient foundation for expert testimony.” ”

“ Mr. Henthorn’s experience is sufficient to render the opinion reliable and helpful to a jury.”

FACTUAL BACKGROUND

Douglas Looney, an employee of Evergreen, was standing behind a vacuum truck to wash its interior when a chunk of ash flew out and injured him. The expert report attributed the incident in part to Looney's positioning between the truck's half door and debris body, and addressed Evergreen's safety policies, knowledge of the hazard, the obviousness of the falling-debris hazard, and industry standards. Henthorn had experience in industrial hygiene, workplace safety programs, employee training, accident investigations, and vacuum trucks, but lacked experience with the particular type of ash involved in the incident.

PROCEDURAL HISTORY

Plaintiff Douglas Looney was injured while cleaning the interior of defendant's vacuum truck. In the pending civil action, defendant intended to present Jason Henthorn as an expert witness. Plaintiffs moved to exclude all five opinions in Henthorn's expert report, and the district court ruled on the admissibility of each opinion before trial.

DISPOSITION

other

CASES CITED

- Kopf v. Skyrn, 993 F.2d 374 (4th Cir. 1993)
- Friendship Heights Assocs. v. Koubek, 785 F.2d 1154 (4th Cir. 1986)
- Nease v. Ford Motor Co., 848 F.3d 219 (4th Cir. 2017)
- Sardis v. Overhead Door Corp., 10 F.4th 268 (4th Cir. 2021)
- United States v. Wilson, 484 F.3d 267 (4th Cir. 2007)