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The Admissibility of the BACtrack View Alcohol Monitoring Platform in Family Proceedings and Probation Violations

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I. Executive Summary

This paper examines the admissibility of the BACtrack View monitoring platform in family law and probation violation proceedings. The platform consists of BACtrack View, a smartphone app–based remote alcohol testing system designed to provide real-time, verified sobriety results. The app pairs with BACtrack Mobile, a police-grade fuel cell breathalyzer, to generate accurate, time-stamped Breath Alcohol Concentration (BrAC) readings. This technology is designed to be used in family court and community supervision settings, where reliable documentation of alcohol abstinence is essential.

Under the *Daubert* standard, which governs the admissibility of scientific evidence in the majority of U.S. jurisdictions, expert testimony must be shown to be reliable, peer-reviewed, empirically tested, and based on sound methodology. In contrast, the *Frye* standard, still followed in a minority of states, requires that the scientific technique in question be generally accepted by the relevant expert community. Courts applying both *Frye* and *Daubert* frameworks have admitted BACtrack View alcohol monitoring results as admissible evidence.

Although fuel cell breathalyzers have historically been used primarily in criminal justice settings such as probation supervision, family law proceedings present a distinct civil context. These cases often involve competing parental claims regarding alcohol use and child safety, without the presence of criminal charges. In such settings, the BACtrack View platform offers courts a cost-effective, reliable means of verifying abstinence and promoting child well-being, particularly when traditional testing methods may be too invasive, logistically burdensome, or impractical.

This paper concludes that the BACtrack View app, when used in conjunction with the BACtrack Mobile device, constitutes a scientifically reliable and legally admissible alcohol monitoring platform that meets the evidentiary requirements of both the *Frye* and *Daubert* standards.

II. Introduction and Purpose

The purpose of this paper is to examine whether the BACtrack View platform is admissible as evidence in family law cases involving contested custody or visitation, as well as in probation violation proceedings. This platform represents a new generation of alcohol monitoring technology, with test results that are increasingly being offered as evidence in these proceedings.[1]

The misuse of alcohol intersects with a wide range of judicial proceedings, including family law custody disputes and post-conviction community supervision.

Family court judges routinely carry substantial caseloads and must manage consistently overcrowded calendars.[2] As a result, hearings and trials are often brief, and judicial decisions frequently rely on limited evidence, most commonly the conflicting accounts of self-represented litigants.[3] In child custody proceedings, where the state is not a party and no formal criminal charges have been filed, allegations concerning parental alcohol use typically originate from the opposing parent.[4]

Judges have the authority to order alcohol testing to obtain objective evidence regarding a parent's substance use.

These allegations, which often involve claims of alcohol and/or drug use, are usually framed around concerns for the child's safety and well-being while in the care of a parent suspected of substance misuse.[5] In the absence of law enforcement involvement or a formal investigative process, courts must assess these claims based solely on the evidence presented by the parties.[6] Despite these evidentiary and procedural limitations, judges remain obligated to render determinations regarding custody and visitation, often in the face of sparse and contradictory testimony.

To evaluate custody and visitation issues involving alleged alcohol or drug abuse, family court judges frequently depend on ancillary professionals such as custody mediators, forensic evaluators, and alcohol and other drug (AOD) treatment providers.[7] However, court orders based on these professional recommendations may lack specificity or prove difficult to enforce without the support of objective and ongoing monitoring mechanisms.[8] In response to this challenge, some jurisdictions have enacted statutes explicitly authorizing drug and alcohol testing in the context of family law proceedings, while others have permitted such testing through appellate court rulings.[9] These legal frameworks often highlight concerns related to parental substance use. For instance, California Family Code §3011 directs courts to consider "the habitual or continual abuse of alcohol" in making custody determinations.[10] Likewise, New York Family Court Act §1046 underscores the connection between substance misuse and potential risks of child abuse or neglect.[11]

Thus, Judges have the authority to order alcohol testing to obtain objective evidence regarding a parent's substance use. Once testing is ordered however, many of the traditional alcohol testing methodologies, such as laboratory-based urine screens, blood tests, or scheduled breathalyzer

appointments, can be expensive or logistically difficult to maintain over time.[12]

For parents with limited financial resources or inconsistent access to transportation, these requirements can become barriers to compliance rather than tools for accountability.[13] Missed tests may be interpreted as an attempt to conceal a positive result or as noncooperation, possibly leading to an adverse custody ruling.[14]

In addition to financial and logistical challenges, concerns also arise regarding the effectiveness of certain testing methods in accurately detecting substance use. Non-random scheduled tests can be anticipated and circumvented, masking alcohol use.[15] As a result, courts are increasingly seeking monitoring tools that are reliable, flexible, and capable of being scheduled randomly online, preserving judicial oversight while minimizing the burden on litigants.

Similarly, the need for balance arises in the probation supervision context, where judges must ensure accountability without resorting to frequent, high-cost, or overly invasive testing protocols.[16] Conditions of probation often include requirements to abstain from alcohol, particularly in cases involving domestic violence, possession of illegal drugs, or impaired driving.[17] Yet, as with family court litigants, probationers may face significant financial, logistical, or privacy-related obstacles when subjected to traditional alcohol monitoring methods.[18] Daily in-person testing or laboratory analyses can be difficult to sustain, especially for individuals who lack reliable transportation, work irregular hours, or live in rural areas.[19] At the same time, courts must maintain public safety and uphold the integrity of their orders.[20] This tension highlights the need for monitoring solutions that are accurate and enforceable, yet minimally burdensome, allowing judges to verify compliance without imposing disproportionate costs on individuals under supervision. As courts apply new monitoring technologies to address these challenges, questions inevitably arise about whether the underlying scientific evidence supporting such tools meets admissibility standards.

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In the United States, prior to the twentieth century, the admissibility of expert testimony in judicial proceedings was governed primarily by the expert's reputation and qualifications, rather than by any standardized evidentiary framework.[21] Courts distinguished between lay witnesses, who were restricted to testifying about matters within their direct personal experience, and expert witnesses, who were permitted to offer opinion evidence.[22] This basic approach to expert admissibility, rooted in the authority and experience of the individual, remained largely unchallenged throughout the nineteenth century.[23] However, with the advent of rapid scientific and technological advancements in the early

twentieth century, courts began to confront more complex and contested forms of scientific evidence. These developments prompted a shift in judicial scrutiny, culminating in the 1923 decision *Frye v. United States*. It established a new threshold for the admissibility of expert scientific testimony based on general acceptance within the relevant scientific community.[24]

III. Frye Standard

The *Frye* standard, originating from the 1923 decision in *Frye v. United States*,[25] marked a foundational shift in the judicial evaluation of scientific evidence. In that case, the defendant, James Alphonzo Frye, sought to introduce the results of a polygraph examination to support his claim of innocence in a murder trial.[26] The court declined to admit the evidence, reasoning that the scientific theory underlying the polygraph had not achieved general acceptance within the relevant scientific community.[27] The ruling established what came to be known as the "general acceptance" test, which subsequently served as the prevailing standard for determining the admissibility of novel scientific evidence in American courts throughout much of the twentieth century.[28]

THE FRYE STANDARD, ORIGINATING FROM THE 1923 DECISION IN FRYE V. UNITED STATES,[25] MARKED A FOUNDATIONAL SHIFT IN THE JUDICIAL EVALUATION OF SCIENTIFIC EVIDENCE.

Under the *Frye* Standard, scientific evidence must be "sufficiently established to have gained general acceptance in the particular field in which it belongs."[29] As used in *Frye*, the term "general acceptance" does not require unanimous endorsement, but does require broad support from the relevant scientific community.[30] The focus is not on whether the technique is infallible, but whether it has been endorsed through consensus by those qualified in the discipline. This approach aims to protect courts from being swayed by pseudoscience or novel, untested theories.[31]

Though now considered the minority rule in the United States, it remains the law in several major states, including California, Texas, and New York.[32]

IV. FRE 702 and the The *Daubert* Trilogy

In 1993, the Supreme Court held in *Daubert v. Merrell Dow Pharmaceuticals, Inc.*,[33] that the *Frye* test was superseded by *Federal Rules of Evidence (FRE)* 702.[34] The Court reasoned that the rules governing expert evidence simply did not support the idea "that 'general acceptance' is an absolute prerequisite to admissibility" of scientific evidence. Rather, in determining the admissibility of expert evidence, judges should consider several factors, including:[35]

1. Whether the evidence is generally accepted within the relevant scientific community;
2. Whether the methodology has been published in a peer-reviewed journal;
3. Whether the theory or technique has been tested;

4. Whether there is a known and acceptable error rate; and,

5. Whether the research was conducted independently of the current or anticipated litigation.

Thus, *Daubert* established that reliability is foundational to admissibility and cannot be left solely to the trier of fact.[36]

The Supreme Court expanded on *Daubert* in two subsequent decisions. In *General Electric Co. v. Joiner*,[37] the Court held that expert testimony is inadmissible when there is an insufficient connection between the underlying scientific data and the expert's conclusions. It also clarified that appellate courts should review the admission of expert testimony under the "abuse of discretion" standard. In *Kumho Tire Co. v. Carmichael*,[38] the Court confirmed that the *Daubert* standard applies not only to scientific testimony but to all expert testimony, including technical and other specialized knowledge.[39] In 2000, FRE 702 was amended to codify the *Daubert* Trilogy,[40] and in 2023, it was further amended to clarify that these requirements must be established by a preponderance of the evidence and emphasized that expert opinions must not exceed what the underlying methodology can reliably support.[41]

Therefore, under the *Daubert/FRE 702* Standard, an expert's opinion must be of a scientific, technical, or specialized subject that requires specialized knowledge. The opinion must be based on sufficient facts or data, and must demonstrate that the expert has applied those principles and methods reliably.[42]

Whether applying the *Frye* standard or the *Daubert/FRE 702* framework, judges are not expected to become scientists. Their role is to serve as generalists in knowledge but specialists in the law.[43] As legal specialists, judges must fulfill their gatekeeping responsibility by determining whether scientific expert testimony is sufficiently reliable to be admitted.[44] This approach is designed to ensure that the fact-finder receives accurate and trustworthy scientific evidence in pursuit of a just verdict.[45]

AS LEGAL SPECIALISTS, JUDGES MUST FULFILL THEIR GATEKEEPING RESPONSIBILITY BY DETERMINING WHETHER SCIENTIFIC EXPERT TESTIMONY IS SUFFICIENTLY RELIABLE TO BE ADMITTED.

The gatekeeping role is especially important for judges evaluating emerging technologies, such as alcohol monitoring devices, whose scientific validity and legal admissibility must be assessed under the evolving legal standards.[46] Since the development of the first breath alcohol detection device by Emil Bogen in 1927, courts have witnessed significant technological progress, culminating in the creation of the first modern breathalyzer in 1954.[47] These innovations laid the foundation for the ongoing legal reassessment of the reliability and evidentiary value of breath alcohol testing. Initially, courts focused on the reliability of evidentiary breath testing devices used to establish breath alcohol concentration (BrAC) in impaired driving cases.[48]

The admissibility of evidentiary breath test results in impaired driving cases has historically been governed by strict procedural safeguards designed to ensure the reliability and integrity of the evidence.[49] Courts, in these cases required that breath tests be administered by properly trained and certified individuals, using devices that are approved under applicable statutory or regulatory frameworks.[50] These procedural prerequisites have been reinforced across multiple jurisdictions, often through legislative mandates that delineate specific conditions under which BrAC test results may be introduced into evidence.[51]

THE ADMISSIBILITY OF EVIDENTIARY BREATH TEST RESULTS IN IMPAIRED DRIVING CASES HAS HISTORICALLY BEEN GOVERNED BY STRICT PROCEDURAL SAFEGUARDS DESIGNED TO ENSURE THE RELIABILITY AND INTEGRITY OF THE EVIDENCE.

This foundational framework not only shaped the treatment of evidentiary breath tests (EBTs), but also influenced early judicial approaches to related technologies, such as portable fuel cell breathalyzers (FCBs), often known as preliminary breath test devices (PBTs).[52] Similiar to EBTs, courts frequently conditioned the admissibility of FCP results on proof that the test was administered by a qualified individual using a device approved under applicable statutory or regulatory standards.[53] Comparable limitations were recognized across jurisdictions, often codified through legislative provisions that expressly restricted the admissibility of PBT results.[54]

As fuel cell and microprocessor technologies matured, courts began distinguishing between statutory exclusions applicable to specific contexts and the broader evidentiary utility of FCBs, with some authors suggesting that these devices should be admissible as EBTs.[55]

Courts operating under the *Frye* standard have shifted toward admitting the results of FCBs into evidence. In *People v. Halsey*,[56] the court held that although Illinois statutory law excluded PBT results in certain administrative contexts, that limitation did not preclude their use in other legal proceedings.

In *People v. Jones*,[57] a New York court found that a fuel cell PBT met *Frye's* general acceptance test, particularly after the device was listed on the National Highway Traffic Safety Administration (NHTSA) registry of approved breath testing technologies. Building on this reasoning, *People v. Hargobind*,[58] held that inclusion on the NHTSA list was sufficient to establish the scientific validity of the device. New York courts have adopted a similar evaluative approach, holding in *People v. Hernandez*,[59] that PBT results are admissible where the device is on the approved list, properly calibrated, administered by a trained operator, and supported by adequate procedural safeguards.

The California Supreme Court reached a similar conclusion in *People v. Williams*,[60]

emphasizing the importance of proper maintenance and qualified administration in admitting PBT results. Following that precedent, *People v. Wilson*,[61] clarified that while a portable breath test may not hold the same probative weight as a forensic chemical test, it could nonetheless be used to support a finding of impairment if foundational requirements were satisfied.

In *Joseph B. v. Y.S.*,[62] the California Court of Appeal affirmed a family court's decision not to reinstate mandatory alcohol testing for the father, who had initially agreed to use a FCB device during custodial periods. Although the father had a few early violations, he subsequently completed over two hundred consecutive negative tests and voluntarily continued testing beyond the agreed six-month period. When the mother moved to impose renewed testing, alleging missed tests, the trial court found her claims unsubstantiated and based its decision on the father's sustained compliance, particularly the large number of consecutive negative test results that were admitted into evidence which established that there was no current alcohol misuse or material change in circumstances. The appellate court upheld the ruling, concluding that the trial court acted within its discretion in finding that further testing was not warranted or in the child's best interest.

In *State v. Damon*,[63] the Montana Supreme Court held that the result of a FCB was admissible as substantive evidence of intoxication in a DUI prosecution. The Court affirmed the trial court's ruling that the result, showing a BAC of 0.274, met the admissibility requirements under Montana Rule of Evidence 702, which mirrors the federal rule and incorporated *Daubert*/*Frye* reliability standards. While the Court reserved full *Daubert* gatekeeping requirements for novel scientific evidence, it concluded FCB technology was not novel, and thus evaluated admissibility under *Frye* principles.

Similarly, courts applying the *Daubert*/*FRE 702* standard have likewise admitted FCB results. In *State v. Beaver*,[64] the court found that Wisconsin's statutory exclusion of PBT results applied only to specific regulatory offenses, not to criminal proceedings such as sexual assault. Then in *State v. Cable*,[65] the court admitted fuel cell PBT results under *Daubert*, finding that the device was properly calibrated, reliably administered, and scientifically validated through expert testimony. The court noted that the device's error rate was comparable to that of more traditional evidentiary instruments like the Intoxilyzer.[66] Likewise, in *City of Westland v. Okopski*,[67] the court permitted the use of PBT results for impeachment purposes.

TAKEN TOGETHER, THESE DECISIONS REFLECT A GROWING JUDICIAL CONSENSUS RECOGNIZING THE ADMISSIBILITY OF FUEL CELL BREATHALYZER DEVICES. . . .

Federal courts have reached similar conclusions. In *Fischer v. Ozaukee County*,[68] a writ of habeas corpus was granted based on the wrongful exclusion of PBT evidence by a state court. In *United States v. McAdams*,[69] a federal court admitted PBT results under

Daubert, reaffirming the scientific reliability of handheld fuel cell devices.

Taken together, these decisions reflect a growing judicial consensus recognizing the admissibility of FCB devices, particularly when statutory exclusions are not implicated and foundational standards under *Daubert* or *Frye* are satisfied. In cases involving alcohol use, courts have found that PBTs can provide objective evidence to inform decisions in family custody disputes and community supervision contexts.[70]

V. Overview of BACtrack View Platform

The admissibility of alcohol monitoring technologies in legal proceedings continues to evolve with the development of new forms of technology.[71] One such advancement is the BACtrack View platform, which combines the BACtrack View app and the BACtrack Mobile device to form a reliable and accurate alcohol monitoring platform.[72] This fully integrated framework transforms a smartphone-connected breathalyzer into an accountability tool capable of real-time testing, identity verification, and secure results transmission.[73] The platform is particularly well-suited for family law and probation supervision settings that require flexible, secure, and tamper-resistant monitoring.

BACtrack View operates through a dedicated mobile app that syncs with the BACtrack Mobile breathalyzer via Bluetooth.[74] It is designed specifically for legal and compliance settings and incorporates layered verification protocols to ensure both the integrity of the testing process and accuracy of the results.[75]

BACtrack View offers three distinct testing schedules to accommodate a range of court-ordered monitoring requirements.[76] First, scheduled testing allows for fixed daily or weekly test times and is commonly used in structured parenting time or supervision arrangements.[77] Second, randomized testing introduces unpredictability by prompting tests within a defined time window, making it more difficult for participants to plan alcohol use around anticipated testing times.[78] Third, on-demand testing permits designated monitors, including judges, attorneys, or probation officers, to initiate a test at any time in response to a compliance concern.[79]

THIS FULLY INTEGRATED FRAMEWORK [BACTRACK VIEW PLATFORM] TRANSFORMS A SMARTPHONE-CONNECTED BREATHALYZER INTO AN ACCOUNTABILITY TOOL CAPABLE OF REAL-TIME TESTING, IDENTITY VERIFICATION, AND SECURE RESULTS TRANSMISSION.

The BACtrack View app also facilitates the production of secure, court-ready reports.[80] Each downloaded test report includes the participant's name, BrAC result, date and time stamp. When a reviewer clicks on the specific test result online they can also see geolocation data, and a video image.[81] This documentation is accessible through a secure dashboard or can be exported as a downloadable file for use in court hearings, compliance reviews, or evidentiary

proceedings.[82] Chain of custody and audit trail standards are satisfied through comprehensive, end-to-end data logging, which captures every stage of the testing process, from scheduling and execution to transmission and review, using encrypted protocols and unique device identifiers.[83]

Unlike traditional alcohol testing methods, which often require in-person appointments, laboratory visits, or third-party collection sites, the BACtrack View platform enables courts to monitor compliance remotely without compromising evidentiary integrity.[84] This approach significantly reduces logistical burdens for courts, parents, and individuals under supervision.

This reduction in logistical complexity is underpinned by the scientific reliability of the BACtrack Mobile device, which serves as a core component of the BACtrack View platform.[85] The BACtrack Mobile breathalyzer utilizes a professional-grade fuel cell sensor, the same technology employed in roadside testing by law enforcement agencies.[86] These sensors operate by converting alcohol in a breath sample into an electrical current; the strength of this current corresponds directly to the concentration of alcohol present.[87] This method provides precise and repeatable Breath Alcohol Concentration (BrAC) readings, even after hundreds of tests.[88] In contrast, semiconductor sensors are more susceptible to false positives caused by environmental contaminants or chemical interference.[89] Fuel cell sensors, by comparison, react exclusively with ethyl alcohol, significantly enhancing evidentiary reliability.[90] For this reason, fuel cell technology is widely regarded as the gold standard in portable breath alcohol testing, valued for its accuracy, consistency, and alcohol specificity.[91]

To maintain evidentiary reliability, BACtrack Mobile devices must be recalibrated every twelve months.[92] An eighteen-month empirical study of BACtrack Mobile confirmed the device's accuracy within ±0.005% BAC from a 0.050% ethanol standard for at least twelve months post-manufacture.[93] Monthly testing across multiple units and manufacturing lots showed consistent results at months 1, 6, 12, and 18, with a slight trend toward minor drift at eighteen months.[94] However, performance remained within acceptable thresholds, with no statistically significant decline.[95] The findings support a twelve-month recalibration or replacement interval and affirm the device's reliability for legal, professional, and consumer use.[96]

THE BACTRACK VIEW PLATFORM ENABLES COURTS TO MONITOR COMPLIANCE REMOTELY WITHOUT COMPROMISING EVIDENTIARY INTEGRITY, SIGNIFICANTLY REDUCING LOGISTICAL BURDENS FOR COURTS, PARENTS, AND INDIVIDUALS UNDER SUPERVISION.

Instead of sending their device in for calibration, users can receive a brand-new replacement breathalyzer every 12 months at no cost.[97] This replacement not only prevents the degradation of sensor

performance over time but also ensures the ongoing accuracy of BrAC readings.[98] This Program, guarantees that users always have a working device on hand, with sensors operating at peak performance, uninterrupted access to a breathalyzer, and the added benefit of regular updates and improvements.[99]

Multiple scientific studies confirm that BACtrack Mobile provides accurate and consistent breath alcohol concentration (BrAC) estimates, particularly near legally significant thresholds. A 2021 in vitro laboratory evaluation conducted by Aaron Olson assessed three BACtrack models, across ethanol concentrations ranging from 0.020 to 0.250 g/210L.[100] All models exhibited high linear correlation across test concentrations ($R^2 = 0.99$), supporting their predictive reliability.[101] These performance levels are consistent with those expected from law enforcement screening devices and meet or exceed standards recommended by the National Highway Traffic Safety Administration (NHTSA).[102]

Additional confirmation of BACtrack Mobile's accuracy appears in a 2021 peer-reviewed study published in Alcohol Clinical and Experimental Research.[103] This study compared BACtrack Mobile[104] with a police-grade Intoxilyzer 240 and five other consumer devices in a controlled laboratory setting.[105] Participants received weight-based doses of alcohol to reach a target blood alcohol concentration (BAC) of 0.10%, after which their BrAC was measured over time.[106] BACtrack Mobile consistently produced readings slightly higher than the police-grade device, a conservative margin that supports abstinence-based monitoring goals.[107] Notably, BACtrack Mobile was one of only two consumer devices that consistently detected whether participants exceeded legal BrAC thresholds, underscoring its utility in situations where detecting any alcohol use is more relevant than determining legal impairment.[108]

BACtrack Mobile has also demonstrated reliability in naturalistic settings. A 2017 field study by Riordan et al., published in Digital Health, evaluated the performance of the device among participants who had consumed alcohol at large social events.[109] Participants provided BrAC samples using both the BACtrack Mobile and a police-grade device.[110] While the BACtrack device slightly overestimated BrAC (by an average of 0.008 g/dL), its results were consistent and closely aligned with the reference instrument.[111] The authors concluded that the device has practical utility for real-world monitoring, especially in community supervision and family law contexts where consistent detection of alcohol use is critical.[112]

MULTIPLE SCIENTIFIC STUDIES CONFIRM THAT BACTRACK MOBILE PROVIDES ACCURATE AND CONSISTENT BREATH ALCOHOL CONCENTRATION (BRAC) ESTIMATES, PARTICULARLY NEAR LEGALLY SIGNIFICANT THRESHOLDS.

In one of the most comprehensive evaluations to date, Aschbacher et al. (2021) analyzed over 970,000 BrAC data points submitted by more than 33,000 BACtrack users over a multi-year period.[113] The study

applied machine learning algorithms to predict whether a given BrAC reading would exceed the 0.08 g/dL threshold.[114] The resulting model achieved an area under the curve (AUC) of 85%, indicating strong predictive capability.[115] The study establishes BACtrack Mobile as a tool with both scientific credibility and practical value. In short: BACtrack Mobile data was accurate, predictive, and behaviorally meaningful.[116]

Collectively, the findings from laboratory studies, peer-reviewed clinical research, and large-scale user data analysis confirm that BACtrack Mobile delivers scientifically reliable BrAC results. The device performs consistently across a wide range of testing conditions, both in controlled environments and in real-world scenarios. Its capacity to generate accurate, secure, and time-verified data supports its use in a variety of legal, clinical, and behavioral health contexts.

Beyond scientific accuracy, the evidentiary value of the BACtrack View platform is enhanced by technological features within the BACtrack View app that ensures data integrity and identity verification. The platform incorporates multiple safeguards that strengthen its admissibility in legal proceedings. Each test result is automatically time-stamped and may include geolocation data.[117] The geolocation data included in test records allows monitors to confirm that a test was taken in the correct place.[118]

BEYOND SCIENTIFIC ACCURACY, THE EVIDENTIARY VALUE OF THE BACTRACK VIEW PLATFORM IS ENHANCED BY TECHNOLOGICAL FEATURES WITHIN THE BACTRACK VIEW APP THAT ENSURES DATA INTEGRITY AND IDENTITY VERIFICATION.

A high-resolution video and audio recording of each test is uploaded to secure servers, enabling the supervising agency or designated personnel to confirm that the correct person is taking the test.[119] If no face (or more than one face) is detected on camera, the test is automatically blocked through facial detection technology.[120] All data is transmitted securely using encryption protocols and stored with unique device identifiers, reducing the risk of tampering or spoofing.[121] Stakeholders may access historical data and generate reports documenting a participant's overall compliance.[122] These reports may then be used as part of court filings or presented during probation hearings.[123] BACtrack View's video recording feature, audit trail, and secure data storage support chain-of-custody requirements necessary for admissibility in evidentiary proceedings.[124]

Of value to our analysis are four cases: One from Arizona, and one from Louisiana which both applied the *Daubert*/ Rule 702 standard, and two from Illinois that applied the *Frye* Standard.

In *McEnaney v. DuCharme*,[125] the Arizona Court of Appeals, applying Arizona's *Daubert*/ Rule 702, affirmed a trial court's reliance on BACtrack monitoring results to conclude that a father had successfully rebutted the statutory presumption against joint legal decision-making following

an incident of alcohol abuse. The court credited the father's consistent negative test results over the course of nearly a year and found that his alcohol use was "now under control."[126] The appellate court upheld the ruling, noting that the trial court's findings were supported by competent evidence.

In *Bridges v. Bridges*,[127] the Louisiana Court of Appeal, also applying a *Daubert*/Rule 702 framework, upheld a custody modification in which the trial court had considered the mother's repeated failures to comply with an order requiring BACtrack monitoring. Although the trial court found that no single test result was dispositive, the mother's failure to consistently participate in the testing protocol raised serious concerns about her reliability and fitness to parent. The appellate court concluded that her noncompliance undermined her credibility and was properly considered in evaluating the best interests of the child.[128]

In re Marriage of Carty,[129] the Illinois Appellate Court, applying the *Frye* standard affirmed a contempt finding against a parent who failed to complete alcohol testing as ordered by the court. The court-approved monitoring protocol included the use of BACtrack monitoring. The applellate court found that the parent's failure to comply, coupled with implausible explanations, justified the contempt sanction. The case affirms that evasion of a monitoring program may itself be probative, even absent a failed test.

In re Marriage of Hipes and Lozano,[130] also from Illinois, further illustrates judicial acceptance of BACtrack monitoring in family law proceedings. In that case, the trial court ordered the use of BACtrack alcohol monitoring to address concerns raised during a child custody dispute. On appeal, the Illinois Appellate Court affirmed the trial court's discretion in ordering the testing and rejected the argument that it violated the parent's due process rights. The decision held that the use of the device constituted a reasonable method for verifying abstinence in light of prior alcohol-related concerns.[131]

VI. Conclusion

In conclusion, the BACtrack View platform is a scientifically validated and legally admissible instrument for alcohol monitoring in both family law and probation settings. The BACtrack Mobile device utilizes electrochemical fuel cell sensors, a technology that has been widely accepted for decades in both law enforcement and clinical contexts. By enabling remote, video-captured, and time-stamped testing, BACtrack View helps ensure compliance with foundational evidentiary standards.

COLLECTIVELY, THE FINDINGS FROM LABORATORY STUDIES, PEER-REVIEWED CLINICAL RESEARCH, AND LARGE-SCALE USER DATA ANALYSIS CONFIRM THAT BACTRACK MOBILE DELIVERS SCIENTIFICALLY RELIABLE BRAC RESULTS.

The results the platform generated are credible, cost-effective, and practical

for verifying alcohol abstinence. The technology's consistent application and recognition within scientific disciplines demonstrates the level of general acknowledgment required to satisfy the *Frye* standard mandate that the underlying methodology be widely accepted within the relevant expert community.

In jurisdictions applying the *Daubert*/Federal Rule of Evidence 702 standard, the BACtrack View platform likewise meets the governing criteria. Peer-reviewed studies confirm its accuracy, reliability, and reproducibility. The device's low and well-documented error rate, manufacturer-enforced calibration protocols, and secure, tamper-evident data handling provide additional assurance of evidentiary integrity. These features demonstrate that the technology is based on sound scientific principles and produces results that are both relevant and trustworthy, core requirements under *Daubert* and Rule 702.

In conclusion, the BACtrack View platform is a scientifically validated and legally admissible instrument for alcohol monitoring in both family law and probation settings.

Accordingly, we conclude that the BACtrack View platform meets the standards for admissibility under both *Frye* and *Daubert*/Rule 702.

VI. Endnotes

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