
From: Noel Newlon

Sent: Monday, August 31, 2026 6:32 PM

To: RulesCommittee Secretary

Subject: Suggestion for the Advisory Committee on Evidence Rules — Certified Tribunal Instance (Rules 702/706)

Dear Ms. Dubay:

Please accept the attached suggestion for the Advisory Committee on Evidence Rules.

The paper proposes a Certified Tribunal Instance: a version-locked, court-certified analytical unit appointed under the existing Rule 706 mechanism, loaded with a stipulated corpus, available to every party on direct examination, permitted to draw record and certified technical inferences, and forbidden by protocol from opining on legal culpability or recommending a verdict. Party-retained experts could still investigate and file reports. They would not testify as competing opinion witnesses on the same subject except where the court finds a method that requires physical inspection or tacit skill.

In a criminal case the same instrument would be used only with the accused's access to the identical instance and logs, live query, examining testimony on the certification, and no substitution of machine output for a human observation the accused has had no chance to test.

The suggestion is offered in connection with the Committee's study of machine-generated evidence and proposed Rule 707. It is a general design for court proceedings, not a request that an uncertified commercial chatbot take the stand.

I am a private citizen in Phoenix, Arizona, and desire fairness in our justice system.

Respectfully,

Noel P. Newlon

The Certified Tribunal Instance (An Analytical Witness for All Court Proceedings)

Abstract:

A courtroom does not need another paid advocate on the stand. It needs one instrument that has read the whole file, that both sides may examine, and that is forbidden from deciding the case. That instrument is a Certified Tribunal Instance: a version-locked model built or certified by an authority the parties accept or the court appoints, loaded with a stipulated corpus, available to every party on direct, required to ground its claims in the record, permitted to draw record and technical inferences, and barred by architecture from opinions on legal culpability or a recommended verdict. Party investigators may still gather facts and write reports. They do not take the stand as competing opinion witnesses on the same subject except where a method requires physical inspection or tacit skill. The design is general. It is for court proceedings as such.

I. The problem:

Trials now buy two reconstructions of the same facts. Each side retains an expert, feeds that expert a curated file, and asks the jury to choose a personality. The costs are time, money, and a built-in tilt: the witness is paid by one party and has not been required to answer from the whole record.

A high-capability model can read the complete file and answer from it. That is useful only if the model is not a party chatbot. The objections that follow are real, and they are solvable without shrinking the idea to a preferred docket.

There must be an agreed author. There must be someone who can be sworn as to the instrument. The method must be testable under Rule 702. In a criminal case the accused must be able to test the evidence in the manner the Confrontation Clause requires. The prompt must not become a secret retainer letter. Fluency must not hide invention. The machine must not tell the fact-finder who wins.

Those are specifications. They are not reasons to confine the instrument to one class of case.

II. The instrument:

A Certified Tribunal Instance (CTI) is one official make, one frozen corpus, one public protocol, one human custodian, and one set of architectural refusals.

-Approved authority.

The model family and the courtroom protocol are certified by a public authority, or jointly nominated by the parties. Federal Rule of Evidence 706 already lets the court appoint any expert the parties agree on, or one of the court's choosing. The CTI is that appointment applied to a certified system. If the parties cannot agree, the court appoints from the certified list after notice and a chance to be heard.

Certification is a published file: model card, evaluation suite, known failure modes, grounding rules, refusal list, and logging standard. A build that cannot meet those terms is not eligible.

-Stipulated corpus.

The court locks the materials the CTI may use: exhibits, transcripts, discovery answers, measurements, and the written reports of party investigators. If the corpus must be supplemented, the CTI is re-frozen and every party is told.

-Frozen CTI.

The certified build, the locked corpus, and the public protocol are instantiated once, hashed, and lodged with the clerk. Copies go to the parties. Later commercial updates do not touch the case. The witness is this CTI, not a brand name.

-Architectural refusal.

The CTI will not state its own opinion on legal culpability, will not recommend a verdict, and in a criminal case will not state whether the accused had a mental state that is an element of the offense or a defense. Questions that demand those answers are refused on the record.

The refusal is of the CTI's conclusion, not of the file. The CTI may report what a document in the corpus asserted, including an expert report that addresses mental state: 'Dr. John Doe's report, DX-14 at 6, states that the defendant lacked the capacity to appreciate the nature of the act.' That sentence must be labeled as the report's claim and tied to the page. The CTI may also point to other corpus material the report cited or omitted.

What it may not do is adopt that claim, weigh competing mental-state reports into a winner, or translate them into an element or a defense. 'The defendant lacked that capacity', 'the records establish that he knew', and 'Dr. John Doe is correct' are refused.

The test is the same as for every other inference. If counsel asks what the page says, the CTI reads the page. If counsel asks whether the accused knew, the CTI refuses.

-Grounding.

Every factual assertion offered as a finding must identify the corpus material on which it rests. A sentence without a span is out. A span that does not say what the CTI claims is impeachment.

-Custodian.

A court officer takes the oath as to chain of custody: that the lodged hash is the running CTI, that the corpus is the stipulated corpus, that the logs are complete, and that the protocol in use is the certified protocol. The custodian sponsors the instrument. The custodian is not the source of the analytical answers.

-Examination.

The court or any party may call the CTI. The custodian is examined on foundation. The CTI is queried live, on the record. Any party may cross by further questions to the same frozen CTI and by examining testimony on the certification or its application to these facts.

-Party experts.

Each side may hire investigators to gather facts, run tests, and write reports. Those reports enter the corpus. Unless the court finds that a method requiring physical inspection or tacit

professional skill cannot be addressed by the CTI, those investigators do not testify as opinion witnesses on the same subject.

III. Inferences:

A CTI that only recites pages is a search engine. The useful work is inference. The protocol should separate three layers.

-Record inferences (permitted).

Conclusions that stay inside the file: dates that cannot be reconciled; two exhibits that describe the same event differently; a measurement that is stated and a time of origin that is not; a deposition page that conflicts with an earlier statement. Every such claim points to the spans used.

-Technical inferences (permitted when the method is certified).

Conclusions that apply an evaluated method to corpus facts: a load compared with a rated capacity in a cited standard; a failure mode consistent with fatigue rather than a single overload because of a described fracture feature; a differential diagnosis that the records do not show was considered. The output must say what would change the conclusion if a cited fact were wrong. These are still not a verdict.

-Legal and culpability inferences (forbidden).

Negligence, unreasonable dangerousness, knowledge as an element, a recommended verdict, a finding that a witness is lying, a declaration that one side's theory is correct. After an answer, the test is: if the cited pages are covered, does the sentence still require a legal word or a guess about a mind? If yes, it is struck.

The CTI should label what it is doing: 'the record shows', 'the record does not show', or 'this is an inference from A and B under method C.'. A party report that ends in a legal punchline may be described as that report's claim. The CTI may then point to the underlying exhibit. It may not adopt the punchline.

IV. The standard objections:

-Authorship.

The author is the certified build, accepted by stipulation or appointed under Rule 706. The protocol is public. Private system prompts are forbidden. Case-specific instructions, if any, are entered by the court after argument and lodged with the instance.

-The oath.

The CTI does not raise a hand. The custodian does, as to the instrument. The outputs are tested by the cited span, by putting the contrary document to the same CTI, and by examining testimony on the method.

-Confrontation.

In every case, every party has the same CTI and live query. In a criminal case that is not enough by itself. The accused also obtains the logs and may retain an examining expert to test the

certification and its application, including, under protective order where weights are proprietary, the evaluation materials needed for that challenge. No output is admitted as a substitute for a human observation the accused has had no chance to test. If the prosecution needs what a person saw, it produces the person. Those are conditions of use when liberty is at stake. They are part of the general design.

-Rule 702.

The stipulated corpus is the data. The certified protocol, published evaluations, and known error rates are the method. Grounding and logs are the application. Fit is supplied by the ban on verdict and culpability. A build that cannot publish an error profile or cannot ground its claims fails the gate.

-Hallucination.

Ungrounded statements are excluded. Certification publishes failure modes. Fluency is the hazard. Grounding is the control.

-Advocacy smuggled through reports.

Party reports will still advocate. They sit in the corpus next to the raw documents. The CTI may say what a report claims and what the exhibit says. It may not decide the case.

Opacity.

Full public weights are not required for every certified build. What is required is enough to test reliability in this proceeding: protocol, evaluations, error rates, retrieval logs, and, in a criminal case, defense access under protective order to the materials needed to challenge the application. Opacity that cannot be tested that way is a reason to deny certification.

V. A companion to Rule 706:

(a) On stipulation of the parties, or on motion, or on its own after notice and a chance to be heard, the court may appoint a CTI from a list of builds certified by the designated public authority, or a build the parties jointly nominate if it meets the certification standard.

(b) The court shall lock the corpus the CTI may use, lodge a frozen CTI with the clerk, and appoint a custodian.

(c) The CTI shall not state an opinion on legal culpability or recommend a verdict, and in a criminal case shall not state an opinion on a mental state that is an element of the offense or a defense.

(d) Any factual assertion offered as a finding shall identify the corpus material on which it rests. Record inferences and certified technical inferences are admissible. Legal and culpability inferences are not.

(e) The CTI may be called by the court or by any party and may be examined by live query on the record. The custodian may be examined on foundation. Any party may offer examining testimony on the certification or its application.

(f) Unless the court finds that a method requiring physical inspection or tacit professional skill cannot be addressed by the CTI, party-retained experts on the same subject may investigate and

report but shall not testify as opinion witnesses.

(g) Compensation of the custodian and the cost of the CTI shall be allocated as under Rule 706(c).

(h) This rule does not limit a party's right to call fact witnesses or to examine the CTI.

VI. Limits that belong to the instrument, not to a docket:

The CTI reads a locked file. It does not supply demeanor. It does not replace a site inspection or a person's account of what was seen. Those remain live testimony.

A courtroom CTI should be version-locked and inspectable. Novelty is not a reliability virtue.

The instrument is for court proceedings. The conditions above apply in all of them. Where the file can be locked and the question is what that file can support, the CTI belongs on the stand under those conditions. Where the question is a person, the person belongs on the stand.

VII. Conclusion:

The witness stand is not the place for a party's chatbot. It can be the place for a single certified reader of a locked file, accepted by the parties or appointed as Rule 706 already allows, sponsored by a custodian who can be sworn, queried live by every party, permitted to draw inferences that stay inside the record and the certified method, and forbidden from deciding the case.

Investigation remains adversarial. The witness function does not become a second marketplace. Time, money, and attention return to the evidence. The fact-finder keeps the verdict.

That is the general ideal. It does not depend on choosing a starter docket. It depends on certification, a locked corpus, grounding, a public protocol, and a hard stop at culpability.