

Commercial Law League of America

125th National Convention

Presented by:

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WW&R
WELTMAN, WEINBERG
& REIS Co. LPA

THE EXPERT'S EXPERT

Weltman, Weinberg & Reis Co., L.P.A.

National Coverage

500 + Employees

Bankruptcy

Probate

Commercial Collections

Transportation Industry Collection

Consumer Collection

Compliance

Creditor Representation

Topics for Today

- Who is the Expert's Expert
 - When to use an expert
 - How to find an expert
- Formal engagement of an expert
 - Court rules on experts
 - The experts report if any
 - Testimony of an expert
- Termination of the expert's services
- Communicating with Client's about experts
 - Costs, expenses – who pays

WHO IS THE EXPERT'S EXPERT?

- We all are when we hire an expert. Expert's are not often acquainted with Courts and Court process. You will have to educate them and assist them along the way.
- Delays & Deadlines
- Local protocol on dress and logistics
- Facts & Background
- Court procedure and rules
- Expectations
- How to handle adverse parties

WHEN TO USE AN EXPERT

Case by Case analysis

Construction Cases

Cases involving custom engineered product

Equipment leases

Damages

Liability

Steel or metal composition cases

Signatures

Legal Fees

Professional services standards

HOW TO FIND AN EXPERT

Depends on the industry

Local knowledge

Other cases of notoriety

Thomson Reuters Expert Witness Services

Local Bar Association

Professional Associations

Experience - documentable

FORMAL ENGAGEMENT OF AN EXPERT

An expert who is retained should always be retained under a written engagement that covers the various deadlines, and responsibilities of the parties. Such as (not limited to) :

-Scope

- Date
- Billing information
- Who the actual client is vs counsel
- Rate
- Who pays who and when
- Invoicing protocol if any
- Invoice dispute 30 days
- Withhold of services delivery if not paid
- Credentials are valid
- Term
- Sales taxes chargeable or not?
- No consequential, incidental, special or punitive damages
- Confidential & privileged

COURT RULES ON EXPERTS

Here are some items to consider:

- Federal court rules
- State court rules
- Local rules
- Private party rules - American Arbitration Association
- Professional service association

THE EXPERTS REPORT

Consider these items:

- In compliance with court rules
- In writing
- Renders an opinion
- Thoughtful and complete
- Credibility
- Clarity where there is confusion
- Confusion where there is clarity
- Can you edit?
- Pre-circulation review?
- How much time spent by the expert?

TESTIMONY OF AN EXPERT

- When using an expert's testimony consider
- Costs and timing (get your value)
- Credibility heightened or diminished
- Local reputation
- Articulation and practice
- Help them be the authority
- Drive home the winning points time and time again
- Defend them while under attack
- Give little material for adverse side to attack
- Disclose compensation and time spent

TERMINATION OF AN EXPERT

- The term of the engagement should be in writing.
- If terminated prior to completion do it in writing and with the basis for the termination.
- Self terminating events
- Notice of termination and where it should be sent
- Billings and expenses post termination

- **COMMUNICATING WITH CLIENT ABOUT EXPERTS, COSTS & EXPENSES**

- In writing
- Address responsibilities
- Who will perform what tasks & timing
- Who will pay, when and for what
- Get approval from clients in writing and retain it as client representatives change
- Confirm all facts
- Explain why an expert is needed
- Pros and Cons of an expert
- Case specific needs for an expert, or exposure if none
- Caution them on expense
- Get a big retainer for expenses as needed
- Do not guarantee payment to the expert for services

QUESTIONS AND MORE

1. Questions
2. Discussion
3. Comments
4. War stories
5. Can you believe my expert did - what?

Questions?

Please feel free to contact me anytime:



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