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Becoming an Expert Witness: What I Learned Along the Way

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If you've ever thought your in-depth knowledge of a particular industry might someday qualify you as an expert witness, take heart, and learn from my experience.

In 2019, ten years after founding my reputation management firm in New York City, I received an email from an attorney seeking an expert witness to evaluate a defamation case against her client. I wasn't sure what expert witnesses did, but I knew how defamation plays out online - and how to repair it. So I prepared a short proposal to evaluate the case and was engaged.

After reviewing the plaintiff's search results, I saw within moments there was no case: a single, hard-to-find entry buried deep in Google's results couldn't plausibly support claims of lost revenue and reputational damage. My assessment explained why the evidence fell short.

Litigation is a close-knit field

From then on, I began receiving periodic inquiries from law firms across the country - Washington, D.C.; Phoenix; Dallas, each one a referral, which shows how closely the litigation field shares resources. Busy running my business, I didn't market my expert witness work, and had no idea that courses, books, and other resources, such as those on PLI, exist specifically to train expert witnesses.

In hindsight, that may have been an advantage. Reviewing other experts' reports in cases where I served as a rebuttal witness taught me more practical information than any manual could. Working with attorneys taught me their language and process. I've since learned this is a common path: few people enter a highly specialized field with

the goal of someday becoming an expert witness. Here is what I have learned since then.

From Engagement to Trial: The Expert Witness Timeline

Litigation is expensive and time-consuming, so most cases settle before trial. The timeline for expert witness work varies accordingly.

In one case, I had over two months to prepare a damages report, then months later sat for a seven-hour videotaped deposition. When the case didn't settle, a federal jury trial was scheduled and rescheduled several times. Start to finish, the process took a year.

In general, expert witnesses can spend three months or more on a report, and many whom I know decline engagements that amount to rush jobs.

One colleague is in her fourth year on a case: she prepared the initial report, then was called back repeatedly for further proceedings, most recently a trial. Extended engagements like this require constantly refreshing complex data and memorizing the process, data and assessments you made months or years before.

What Attorneys Look for in an Expert Witness

Credibility and deep expertise in a narrow, specialized industry are essential. Accept only engagements that match your specific education, experience and knowledge - otherwise you become a hindrance to the case rather than a help, undermining the client's sole goal: a successful outcome. A judge can deem you unqualified and exclude your testimony, ending your career and jeopardizing a case that may represent years of work and significant investment.

Being an effective, calm communicator, in writing and in person, is a plus. Connecting well with a jury helps if a case goes to trial. A strong CV and a record of publishing in respected journals and periodicals helps establish your expertise. Being interviewed in credible media outlets reinforces that.

Build Your Expert Witness Network Early

A few years into my expert witness practice, I met Dr. Gerald M. Goldhaber, a safety warnings and communication expert whose clients have included more than 100 of the Fortune 500 and government agencies, including the FDA. Twenty years ago, he founded the [New York Regional Expert Witness Association](#), now about 100 members strong.

We meet monthly, virtually or over lunch, with up to 25 or more members attending. The group's expertise spans a wide range of specialties: architecture and construction, cybersecurity, financial damages, legal ethics and malpractice, media and

entertainment, nuclear regulatory oversight, toxicology, and more. I've benefited immeasurably from the expertise shared. Additional expert witness groups exist on LinkedIn as well.

Recognize - and Decline - Cases Outside Your Area of Expertise

Attorneys draw on a range of resources to find suitable experts. Referrals appear to be a common method used, and many law firms also rely on professional listing platforms (some free, some by subscription) as well as individual expert websites that are easily found online.

Once they've identified potential witnesses, they reach out by email or phone with a brief case description, aiming to gauge your relevant experience, availability, cost, and how well you respond.

Of the inquiries I receive, roughly half aren't a fit, most often because the case needs a different type of subject-matter expert. When possible, I recommend another witness, usually someone from my network.

To me, some cases seem frivolous, meritless, or unwinnable. Whatever the reason, and you don't need to spell it out, decline any case you don't believe is viable. I do, whenever I know nothing I can offer will effectively strengthen the case.

Structure Your Engagement Agreements to Protect You

Unsurprisingly, a wealth of advice exists on this topic since attorneys and law firms are our clients. Kevin Quinley, an expert witness who helps attorneys across the country establish comply with, or identify breaches of, claim-handling industry norms, wrote an article I've found especially helpful, [The Expert Witness Protection Program: Retention Provisions to Avoid Engagement Nightmares](#).

As he says, "Every expert witness has a horror story: the attorney who "forgot" to mention a trial date until two weeks prior, the invoice that sat unpaid for months before the client started nitpicking, and the case that dragged on for years while your hourly rate stayed frozen."

How Experts Can Best Meet Client Needs

Once your expertise and suitability for an engagement are established, being honest about the time you need is critical, as many attorneys request reports on deadlines that simply can't be met. In the last several weeks alone, I've received at least five inquiries asking for a report within two weeks. It can't be done.

Meeting deadlines and being reachable for calls and video meetings without making clients jump through hoops sounds obvious, but it's worth noting. Drafting expert reports that withstand scrutiny is a must-use accepted formats, standard

citations, and accepted methodologies to support your damage assessments and other conclusions.

Beware of AI

Don't use AI to prepare or shape your expert conclusions, or any part of your report. If you use AI for research (as I recently did), save your queries and responses and cite them. (I also included mine as an exhibit.) Be advised that AI prompts are discoverable and can be subpoenaed from your AI provider.

As [Rebecca Fordon](#), Assistant Director for Innovation, Research, and Instruction at Ohio State University's Moritz Law Library, advised my networking group, "If you can't reproduce it or explain it, it isn't a method." In other words: if you don't save your AI prompts and responses, your testimony can be rejected.

[Jennifer Ellis](#), an attorney and law practice management consultant advising clients on legal ethics, AI, cybersecurity, law firm technology, and online presence, goes further, warning against using AI for anything beyond low-level tasks in expert witness work, given its tendency to fabricate information. She also warns against uploading case materials to AI platforms - a confidentiality risk - and recommends only enterprise-level, subscription platforms for any expert witness-related work. Her blog post, [The AI Ladders of Risk](#), is a helpful read.

Understanding Daubert and Your Role in the Litigation Process

A Daubert motion is a formal pretrial objection asking a judge to exclude or limit an expert witness's testimony, arguing the expert is unqualified, their methods scientifically invalid, or their opinions irrelevant. If opposing counsel succeeds, the testimony can be dismissed.

Ways to minimize this possibility include:

Ensure that both your methodology and your conclusion are sound. Courts applying Daubert look at how an expert reached an opinion, not solely whether it sounds credible. Be able to explain, in plain terms, what supports your approach, and avoid methods that are novel, untested, or outside your field's accepted practices. Thoroughly documenting your process, assumptions, and data sources is part of an effective report.

Preparing for Depositions and Trial Testimony

Depositions and trials can take place months or years after a report is prepared. Thoroughly reviewing your opinions, findings, and methodology in the weeks beforehand ensures you're fully up to speed on what you'll be asked - and possibly challenged on.

Practicing with counsel and requesting the opposition's likely questions also helps. For one jury trial, a colleague prepared responses to more than 1,000 possible questions.

Common Challenges in Working with Counsel

In conversations with fellow expert witnesses, I found a common challenge is: how do I fire my attorney (yes, the one who hired me for the engagement)? Not being paid on time runs a close second; pressure to deliver a specific opinion is third. As an attorney friend told me at the start of this career, "Don't let them bully and harass you into saying what they want you to."

I won't detail why more than one peer has wanted to fire their attorney, or did, but the bottom line is: set boundaries at the start of an engagement and stick to them.

How to Market Your Expert Witness Practice Ethically and Effectively

A comprehensive, factual CV is the heartbeat of marketing your expertise. Complete honesty within it about your expertise and experience is the core ethics piece of this puzzle. Don't falter there. Most experts also maintain a website dedicated to their expert witness work. Some publish profiles on paid expert witness platforms that attorneys use to find them, and others register with search firms that source witnesses for law firms.

Keep a fee schedule on hand spelling out your hourly rates, and higher rates for travel, depositions, and testimony, along with the terms of engagement - requirements, disclaimers, and the like - that also appear in your letter of agreement. That document should be ready to go, all the time. Engagements that move forward, move fast.

Protecting yourself with expert witness liability insurance is the final step in your launch. As Kevin Quinley, whom I cited earlier, notes, "expert witnesses can face liability claims and suits for any number of reasons."

With that, you're off to the races.

Shannon Wilkinson is a nationally recognized authority in online reputation management and an expert witness in defamation litigation. As the Founder and CEO of [Reputation Communications](#), established in 2009, Ms. Wilkinson has been at the forefront of the online reputation management industry, pioneering specialized services for high-profile individuals and organizations whose public standing is critical to their success. Her expert witness website is www.expertdefamationwitness.com. With over fifteen years of experience, Ms. Wilkinson's firm is distinguished as one of the few online reputation management companies focusing on the unique needs of influencers - individuals with significant impact in business, politics, or social issues.

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