

Eeny, Meeny, Miny, Moe: Choosing the Right Expert for Your Case

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DO I NEED AN EXPERT?

Rule 702. Testimony by Expert Witnesses

- A witness who is qualified as an expert by knowledge, skill, experience, training, or education may testify in the form of an opinion or otherwise if the expert's scientific, technical, or other specialized knowledge will help the trier of fact to understand the evidence or to determine a fact in issue.

Rule 703. Bases of an Expert's Opinion Testimony

- An expert may base an opinion on facts or data in the case that the expert has been made aware of, reviewed, or personally observed. If experts in the particular field would reasonably rely on those kinds of facts or data in forming an opinion on the subject, they need not be admissible for the opinion to be admitted.
 - What would an expert be used for in a construction case? SOC, damages, allocation, attorney fees
 - What would an expert not be appropriate in a CD case? Mental anguish
 - Are more experts better?
 - Questions of law



HOW DO I GO ABOUT FINDING THE RIGHT EXPERT?



- Avoid expert referral firms
- Inquiries in the industry
- Expert deposition banks-advertising
- Worked for firm before
- Charges

WHAT AM I LOOKING FOR IN AN EXPERT?

- Someone who can concisely and convincingly make an important point in your case
- Good CV
- Able to handle cross examination
- Can relate to the jury you will have
- Can create visual aids to make the case easier to understand
- Has had prior experience testifying
- Do they understand the process-responsive to the judge; answer questions
- Just because you have an expert, does that mean you necessarily have to call him or her
- Someone who wants to look at all the evidence that is relevant

WHAT AM I NOT LOOKING FOR IN AN EXPERT?

- Someone who cannot see the big picture in the case and only focuses on their small portion
- Have there been successful Daubert motions against them?
- Someone who argues with the judge or opposing counsel
- Someone who does not identify with the jury
- Someone who talks over the heads of the jury and the judge
- Someone lacking empathy
- Someone wanting to please everyone
- Meet your expert in person or by Zoom before you hire them
- Avoid the experts who want to be hired, but then try to get out of testifying