

The Evolution Of The Expert Witness In Construction Disputes

4 Proficiencies That Distinguish Effective Expert Witnesses Today

MARLTON, NJ, UNITED STATES, March 23, 2025 /EINPresswire.com/ -- As the construction industry becomes more complex, the number of disputes grows every year. At the same time, a continually decreasing number of disputes proceed to trial. Most construction disputes are settled out of court, and often without any intention of going to court. According to the American Judges Association, as many as 97 percent of civil cases filed each year are resolved in other ways than in a trial. Pre-trial settlements is a trend that continues to grow each year.

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*James F. Gallagher, P.E.,
F.ASCE, Principal at RMC*

Because of the complexity of construction disputes, expert witnesses are often retained to bring facts and expertise to the deliberation. However, as the dispute resolution landscape changes away from the courts, so too have some of the key characteristics that distinguish effective

expert witnesses.

According to construction thought leader James Gallagher, Principal at Resolution Management Consultants, a leading construction consulting firm specializing in dispute management, expert testimony and litigation defense, “The role of the expert witness is evolving to complement the changing dispute resolution environment. In addition to serving as a courtroom collaborator, today's expert witness is likely engaged in a broader role as the dispute team's industry niche specialist, factual resource and technical or economic advisor.”

Characteristics such as having so-called courtroom presence, an engaging confidence, debating skill and other traits that work well in a trial, are proving to be less significant in today's dispute resolution environment. Gallagher noted that, unless a case is truly headed for the courtroom, the essential skills important for today's expert witness, have changed in priority.

Of course, confidence, demeanor and intellect are still important qualities, yet Gallagher lists 4 proficiencies that have risen in importance for today's expert witness to have. They include:

1) Being current regarding technology and process

That you've been a respected expert for decades and written papers on your topic is not enough and may even be held against you, characterizing you and your expertise as old-fashioned. It is important to keep current regarding such innovations as artificial intelligence, BIM, game theory and other technological and process advancements; and how they relate to your area of expertise.

2) Enhanced strategic insight

In this age of BIM, construction's collaborative environment is enhanced. Facts are facts, but today's effective expert witness will also have sharp strategic insight and be self-aware of their testimony and how it relates to cause and effect from all sides of the case. As well, the proactive use of experts as potential risk analysts brings strategic insight towards minimizing potential risk points in the case.

3) Sharpened teaching skills

Teaching skill has always been important for expert witnesses to have, but its priority is paramount today. Although it can be valuable to demonstrate the depth of one's knowledge, communicating it as a teach would do, in a concise, interesting, understandable, unemotional, relatable manner is critical in today's world of hyper-short attention spans.

4) Contemporized communication media and style

Although the report continues to be the backbone of the expert witness' presentation, wherever possible, contemporize one's presentation with explainer videos, drone footage, graphic art and graphs, written summaries and more.

Said Gallagher, "Today's expert witness must evolve by taking advantage of modern style and media in order to demonstrate that one is forward-thinking and relatable in presenting facts in today's world."

About Resolution Management Consultants, Inc.

Resolution Management Consultants, Inc. (RMC) is a nationally recognized consulting firm headquartered in Marlton, NJ. There are two sides to the business: the construction planning



James F. Gallagher, P.E. F.ASCE, Principal
Resolution Management Consultants

and management aspect – helping clients build more successful projects – and the litigation aspect – should matters go to court, providing analysis and testimony as expert witnesses. Founded in 1993 by veterans in the construction, contracting and engineering professions, RMC has assisted numerous private owners, public agencies and contractors in either achieving project goals or resolving cost and time disputes between the contracting parties.

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