

The Expert Witness: A Primer on Your Activities

By JOHN P. CONIGLIO

Individuals are often called upon to review situations/materials and render opinions based on their technical expertise. These “experts” must have knowledge that goes beyond the layperson’s understanding regarding a specific instance, activity, equipment or practice. Increasingly, safety professionals are being called on to review situations that have resulted in an accident and determine what factors may have been involved.

WHO CAN BE AN EXPERT WITNESS?

An expert witness may be called when a question is not resolvable by common knowledge but instead requires special knowledge, skill, experience, training or education (California Evidence Code, Section 720). Depending on the nature of the case, various experts—such as the safety engineer with comprehensive knowledge of the industrial, process and construction complex—may be called on to testify.

There was a time when it was adequate for the expert to be a man with a Harvard or Yale degree, a bow tie and an upturned nose. It used to be enough for an expert to take the oath and, having mounted the stand, express his opinion and then go home. The fact that he was an educated man and had an opinion was in itself an expert testimony accepted by the courts. Times have changed. Today, the expert has to do a lot of work. He/she has to learn the technique of communicating knowledge and presenting it in a concise,

legal and factual manner (Dorram 4).

The expert witness plays an important, well-defined role in helping the courts understand facts and how they impact a specific issue.

Although the main burden of an expert’s testimony is concerned with the specific incident or failure which lead to the suit or trial, part of it may be directed toward placing the failure in perspective (Sunar 4).

In fact, the job of the expert goes well beyond just testifying in court.

Time spent in court may be only a small fraction of the time spent on a case. The engineers who have been approached to work as an expert witness will first carry out a preliminary investigation to determine whether or not the case is a suitable one and to estimate the time and fees that may be involved (Sunar 6).

Safety engineers are increasingly being asked to share their comprehensive understanding of safety rules and regulations to facilitate these reviews, testify in court as to their understanding of the facts, and offer an opinion as to specific circumstances involved.

Offering an opinion requires much more than simply rote recitation of an OSHA rule or regulation; it requires a full understanding of the technical nature of the work being performed in order to draw a correlation between work practices, equipment and appropriate safety measures. Such in-depth knowledge is particularly needed when the position exceeds the minimal implication of any rule or regulation. In other words, an

expert must be able to communicate *why* a certain practice or function must be undertaken as it applies to a situation, especially when that practice exceeds minimum regulatory consideration. Simply put, the question must be asked, “Is it safe?”

An expert cannot offer testimony on those issues that would be considered a layperson’s opinion and/or typical understanding of a situation. Rather, s/he offers technical facts—often engineering related—that were or should have been applied to a circumstance relating to an accident. The simple expectation is that the expert will provide an instructional/technical review of facts that would not be expected of the layperson.

In the safety area, this would include engineering specifics regarding issues such as fall protection, scaffolding, environmental factors, training, rules and regulations and equipment. The layperson would not have specific understanding in these areas, but would rely on the expert to explain how the best management practices, rules, regulations and/or engineering details apply to the given situation. Further, the expert may be asked to prove or disprove a specific allegation by utilizing engineering specifics to show how an incident may/may not have occurred.

For example, suppose it is alleged that a worker was allowed to ride on a pallet being elevated by a forklift. In this case, it is argued that the person stood on the edge of the pallet and that his weight caused the pallet to dislodge from the forks. As a result, he falls. While plant rules generally prohibit such activity, the expert may be



Today, the expert has to do a lot of work. S/he has to learn the technique of communicating knowledge and presenting it in a concise, legal and factual manner.

that an expert will need in order to understand what occurred. Wherever possible, the expert should view the equipment and/or location in order to assess the work environment as well (although this is not always possible). Any opinions offered must be based solely on objective findings, with any subjective opinions based on technical facts as calculated and/or established by review of the facts.

The expert witness is not paid for an opinion but rather for a technical review of facts that will lead him/her to develop an opinion based on those facts. The opinion may not always support the case outlined by the plaintiff/defendant. When this occurs, the opinion must remain as offered and should only be altered if additional facts/information that legitimately affect it are provided. To do otherwise compromises the expert's standing and will likely cause the information/testimony to be invalidated. A safety engineer should never offer an "expected" opinion, only an accurate one based on facts.

WORK ENGAGEMENT

Once asked to provide technical support, a written agreement must be reached regarding expected input and fees.

It will simplify your work in preparing fee estimates as well as simplifying the work of the attorney in evaluating your estimate, if you have an established schedule of fees for various services. A sample of such a schedule follows:

- Personnel (rate per hour):
 - principals;
 - other engineers;
 - draftsmen and technicians;
 - clerical staff;
- Service categories (e.g., court appearances, field investigations);
- Miscellaneous services (e.g., equipment utilization, test equipment, storage of evidence, photograph reproductions);
- Miscellaneous charges (e.g., transportation, lodging, mileage, parking) (Sunar 44-45).

Fee payment should be outlined in clear terms; in most cases, a retainer is requested.

This can ordinarily range between 20-33 percent of the total anticipated fee, with

asked to prove/disprove that the incident actually could have occurred.

This allegation was actually made in one case; through the use of mechanics and basic physics, it was proven that the worker could not have fallen off the pallet as alleged. The location in question had a strict policy against this activity, and the forklift operator stated that at no time had he allowed anyone to ride on a pallet. Via a mechanical evaluation—which included various calculations of height, jumping distances, body weight and spacing of forks on the mast—it was shown that the only way to cause the pallet to dislodge from the forks was to jump off an elevation, land on the pallet's edge and, by simple bodily force and impact, cause it to dislodge. This occurred without the operator's knowledge while he was lowering the pallet.

An expert offers such detail, along with a review of appropriate rules/regulations as part of the services provided to counsel. In the author's opinion, this format gives the expert an excellent opportunity to act as a teacher. Many courts, judges and juries do not have a full understanding of the equipment, tasks and functions being performed in the industrial/construction arena. The expert can provide an instructional overview so those involved better understand all factors involved.

It can also be helpful to explain specific facts via demonstration. Often, jurors are extremely attentive to these presentations, which generally move from broad concept to specific application, and enrich their understanding. In these situations, the expert's must make sure the demonstration is not overly broad and can be admitted (working with counsel).

While the goal is to be instructional, the expert does not want to lecture to the court or jury.

No matter how outstanding an expert you are in your field, when you are on the stand and under oath, for heaven's sake, don't lecture. Just testify modestly and to the point. There are two basic kinds of knowledge that most experts can impart on the stand. One is practical expertise gained in the course of practicing one's trade over many years. The other is theoretical knowledge attained through book learning (Dorram 14-15).

MEETING EXPECTATIONS OF COUNSEL

In the simplest terms, an expert witness is expected to supply counsel with facts so s/he can understand technical aspects of an issue. This process begins with an initial overview and may involve review of myriad documents in the form of examinations before trial, photographs, engineering drawings, and related detail

Federal Rules of Evidence

Within federal court and many state courts, specific rules must be followed with respect to the qualification and testimony of an expert. For example, rules 701 through 706 would apply.

701: Opinion Testimony by Lay Witnesses

702: Testimony by Experts

If scientific, technical or other specialized knowledge will assist the trier of fact to understand the evidence or to determine a fact in issue, a witness qualified as an expert by knowledge, skill, experience, training or education may testify thereto in the form of an opinion or otherwise (Fedder 209).

703: Basis of an Opinion Testimony by Experts

The facts or data in a particular case upon which an expert bases an opinion or inference may be those perceived by or made known to the expert at or before the hearing. If of a type reasonably relied upon by experts in the particular field in forming opinions or inferences upon the subject the facts or data need not be admissible in evidence (Fedder 209).

704: Opinion on Ultimate Issue

705: Disclosure of Facts or Data Underlying Expert Opinion

706: Court Appointed Experts

the balance of the fee due upon completion of the case. Alternatively, the witness may require the entire fee in advance (Dorram 45).

A fee schedule beyond the retainer may also be outlined, with payment terms based on days after presentation of invoice. Fees should be kept current for continued work on a matter and must never depend on the outcome of a case. In all matters, the engagement and payments must be through the requesting attorney (although the expert must recognize that the attorney is expecting payment for the expert's services from a third party).

The fee amount depends on the expertise to be provided. Whether rates are hourly or a set amount, the exact value will be based on negotiations with counsel; level of assistance to be provided; and an expert's abilities as established through education and general knowledge as exhibited from work history.

When setting fees, the expert must analyze the case to understand the amount of time required to properly review the facts. As materials are provided by counsel, case details will emerge and the expert will better understand the time commitment involved.

For example, if an expert uses an hourly rate (usually between \$75 and \$250), a schedule must be developed for deposition and courtroom appearances, because an expert may be called on to appear in court without a scheduled time for testimony. In such situations, s/he should ask to be compensated at a daily rate (rather than an hourly rate).

GETTING QUALIFIED: BUILDING A PRACTICE

The first step is to decide how much time one is willing to devote to expert work. Once assurances have been offered to attorneys, the safety professional must be able to fulfill those promises.

Since this can become an all-consuming pursuit, it is best not to become a full-time expert witness. Rather, the safety practitioner should maintain his/her professional practice and continue to provide technical services. This allows the professional to remain current; as a practicing professional, s/he will also be viewed as more credible—not just a hired gun.

This will also likely be an area of intense questioning; the courts typically like to hear from an individual who is actively practicing his/her profession and

able to provide technical knowledge that is current and unbiased.

The first thing an attorney will do is examine your curriculum vitae, which should state your credentials accurately. The result of overstatement in the resume can have disastrous effects in the courtroom (Feder 39).

The safety engineer seeking work in the expert litigation support field must develop an accurate and detailed curriculum vitae or resume. This document should list education and background, certification and licenses; detail expertise developed through work history; and list relevant research or publications.

One of the most important reasons for engaging an expert witness is to take advantage of their credibility. What determines the credibility or believability of a witness? First of all, expertise is directly related to credibility. If you have specialized experience in the type of problem that is at hand, and especially if you have written papers or books treating that type of problem, you will have greater credibility than someone without such experience. The attorney for the opposition will probably question you in detail about your qualifications as an expert in the particular case, from your education to your experience to your scholarly work (Sunar 23).

An expert's credibility or renown can be based on his/her past acceptance as an expert on other matters (such as a case before federal and state court), provided the expert is speaking on an issue within his/her expertise. Attorneys often investigate the credibility of expert witnesses, including past testimony on matters for which opinions were rendered.

Specific ways to build an expert witness practice include:

- **Word-of-mouth reference.** The most traditional and still most-effective device for enhancing professional assignments is the personal reference. This kind of reference indicates satisfaction with the expert's work. "Most forensic experts who are well known in the field became well known first by personal referral" (Feder 178).

- **Professional societies and associations.** Membership in professional associations is important when judged as a method of keeping current within the trade. The key consideration is active membership and participation within the organization.

- **Writing, teaching and lecturing.** The expert takes a stand in front of other professionals by presenting technical information that peers will review. Having publications reviewed/accepted by peers enhances one's professional reputation.

- **Professionally appropriate advertising.** Simply advertising would include a notation in expert listings or enrolling with technical expert locating services. Some services charge a listing fee while others charge a rate for providing a reference to counsel seeking an expert in a particular area.

Once an expert is selected to work on a case, another bridge must be crossed before testimony is offered.

Before you are called to the witness stand, the need for expert testimony will have been established to the court's satisfaction. Following your testimony regarding qualifications, the judge will rule that you may or may not testify as a witness. A ruling allowing you to testify

The safety engineer seeking work in the expert litigation support field must develop an accurate and detailed curriculum vitae or resume.

must be made before you can testify regarding your opinions in the case. In ruling on whether you will be allowed to testify, the judge is obliged to consider your qualifications against certain criteria. An expert is considered to be a person who has knowledge, skills, education, training or experience not available to the average person. In addition, the expertise must relate directly and specifically to the subject on which an opinion must be rendered (Sunar 30).

During this process, the expert will be questioned by both retaining counsel and opposing counsel.

If there is any way to challenge the relevance of your expertise to a subject, the opposition attorney will pursue it. If sufficient doubts can be raised regarding your qualifications, the judge may rule that you cannot testify as an expert witness (Sunar 30).

In federal court matters and in most state courts, the judge is responsible for validating an expert's worth to the case and whether s/he will be able to offer accurate, insightful information. Therefore, in many cases, the judge may also question the expert to determine whether s/he is qualified to render an opinion regarding the matter at hand.

Rule 702 of the Federal Rules of Evidence covers the admissibility of expert testimony in federal courts; comparable rules have been adopted in many states (Lubet 4).

Under Rule 702, the United States Supreme Court recently held that it is the job of the trial judge to make a preliminary assessment of the validity, reasoning and methodology of an expert's opinion (*Baubert v. Meril Dell Pharmaceuticals Inc.* 509 US 579 (1993)).

Some states that do not follow Rule 702 use what is known as the "Frye Rule."

Under the so called Frye Rule, scientific testimony is admissible only if the witness' tests and procedures have gained general acceptance within the relevant scientific or technical community. Under this approach, innovative procedures may not form the basis of expert testimony until they have been adopted, or at least recognized, by a broader scientific community, often interpreted as requiring publication in a peer journal. It is not sufficient for the expert herself, no matter how impressive or persuasive to the court, to vouch for the validity of his/her own methods (*Frye v. United States* 293F.1013 (d.c. circa 1923)).

Thus, anyone placing him/herself forward as an expert must pass the litmus test of having the education, experience-based and peer-review acceptance in order to render opinions that federal or state courts will accept.

RULES OF EVIDENCE

Once an expert has been qualified, specific rules of engagement must be adhered to regarding admissibility of testimony and opinion.

The first rule for lay witnesses is that the matter in question must be personally known to you. That is, you must have actually witnessed the event in question. This rule is broadened for expert witnesses so that the only requirement is that the matter must have been made known to you at or before the hearing at which you give your opinion (Sunar 31).

As noted, an expert may receive various case-related materials for review and may visit the site involved in order to develop a more-accurate portrayal of conditions and arrive at more-exact measurements on which to base opinions. These opinions should be based on sound science regarding the relationship between the scene and materials reviewed regarding what would be expected, required and/or developed with a high degree of engineering certainty.

The second rule is that the basis of the opinion must be of the type that reasonably may be relied upon by experts in the field in forming an opinion on the matter in question (Sunar 31).

Simply put, this requires the expert to form opinions based on current knowledge and methods used by others in the field. As noted in the Frye Rule, if the expert witness will render opinions based on his/her own testing procedures, these procedures must have gained general acceptance within the field in order to have validity.

The third rule is that you may not base your opinion on any matter which you are precluded by law from considering. For instance, you may not use an opinion testified to by another expert as a basis for your opinion. You may, however, use facts or the results of tests testified to by other experts as a basis for your opinion (Sunar 31).

Essentially, these rules restrict the expert to offering comments and opinions based solely on specific facts gathered

during the investigation and directly related to the given case.

PITFALLS OF THE EXPERT

Case Selection

Once a person has become an expert witness, s/he should be aware of some common pitfalls.

Case selection is one area of concern. Often, an expert will cite an extensive listing of cases worked, but all for one side (plaintiff or defendant). An attorney is likely to ask such an expert several pointed questions:

- How many cases have you testified on dealing with matters such as X?
- How many times have you reviewed and/or testified on these matters for the defense?
- How many times have you reviewed and/or testified for the plaintiff?

From this simplified line of questioning, the jury will begin to form an opinion of the expert's credibility—particularly if it appears s/he is "one-sided." The best strategy is to not select the side but rather to select cases that involve no conflicts of interest and for which the expert has the appropriate knowledge to render an unbiased opinion.

In some cases, after all the facts have been reviewed, an expert's testimony will not be utilized. However, in those cases where an opinion supports the premise of the retaining party, the expert will no doubt continue to provide assistance—up to and including testimony.

In presenting facts to an expert, attorneys and clients sometimes tell the story the way they wish it had been rather than the way it actually was. Since trial is a disputing matter in any form and is often the retelling of past events, accuracy of recitation is essential. If you do not get it right, your adversary might, often with disastrous results to your client. An ethical obligation attends the fact-gathering process for all concerned. Our dispute resolution processes cannot survive if experts, attorneys and clients attempt to create biased results through selected fact gathering. Attorneys have a responsibility to provide you with complete and accurate information about the case. Your responsibility is to refuse to be satisfied with incomplete information. Press to obtain all available factual information (Feder 67).

The expert must remain open minded. S/he must avoid becoming a "prostitute" for the claimant. S/he must merely review the facts and offer an opinion

An expert must understand the complex set of ethical issues involved and his/her potential role in the outcome of a given case.

based on the facts and industry standards. Operating in this manner will ensure that the expert is respected as a reliable, unbiased individual.

Other common pitfalls include:

- willful misrepresentation in an attempt to shade conclusions;
- willful selection of only those facts that support the conclusion reflective of one side of the case;
- selective presentation of facts and evidence;
- selective fact gathering.

To avoid these pitfalls, the expert must:

- not approach a case with predetermined conclusions as to the causation, culpability, fault or damage;
- remember that attorneys and clients may provide facts that are slanted, either accidentally or deliberately;
- carefully follow well-established investigative steps (e.g., using forms, procedures and processes that ensure no evidence is overlooked);
- observe ethical guidelines of his/her given profession (Feder 68).

As noted, courts depend on experts to explain technical facts. Their input can be critical to the outcome of a given case. Therefore, the expert's review of the case must cover all possibilities so that s/he can respond to all possible avenues of questioning—particularly those from the opposition. If the review is incomplete—if the expert has not examined the “side trails” of possible information and questioning to discount some facts that may be alleged and/or suggested—his/her believability may come into question.

With that in mind, one should also be prepared for the long haul during a deposition or courtroom testimony. It is also important to appear comfortable in the witness chair—to be thorough and not rush answers.

The common mistake of executives and professionals is to assume that if they quickly spit out all the facts they know about the subject, the deposition will end sooner and they can get back to work on matters that seem more important or profitable to them (Baker).

A SIMPLIFIED OUTLINE OF THE PROCESS *Being Found*

An expert is identified by an attorney who will review the expert's qualifications to determine whether they are a good fit for the case at hand.

Engagement Preparation & Rate Setting

Develop a basic engagement document that outlines how the expert will assist and determine a marketable rate for services—hourly, daily or set fee.

Preliminary Review

Review the basic facts as provided by the attorney/client. Then, conduct an in-depth review, assimilating all the technical knowledge available to compare against the facts provided, and begin to develop an opinion.

Deposition

Depositions are used to discover what a witness's testimony will be (*Baubert v. Meril Dell* 34). In this venue, the expert will be questioned by opposing counsel, who will attempt to gather information and understand the basis for the expert's opinion. Here, testimony must be thorough and direct, as it will be held as the basis of later testimony in court. The expert who veers from deposition testimony opens the door for assault by opposing counsel who will then strive to challenge the expert's credibility and opinion.

Expert Disclosure

In many cases (both federal and state, with or without deposition), an expert will be asked to present an expert disclosure. Often, this is an affidavit form that must be signed and notarized by the expert. It may also be in letter format following federal rules of expert disclosure or specific state guidelines. For example, in New York:

Upon request, each party shall identify each person whom the party expects to call as an expert witness at trial and shall disclose in reasonable detail the subject matter on which each expert is expected to testify, the substance of the facts and opinions on which each expert is expected to testify, the qualifications of each expert witness, and a summary of the grounds for each expert's opinion (NY CPLR S 3101; McKinneys).

During this preparation, the expert's curriculum vitae or resume will become a critical reference.

Trial

If a case reaches this point, parties have obviously been unable to negotiate a “fair” settlement. The process described—from examinations before trial, review of the case and offering of opin-

ions, disclosure and deposition—will often lead to a resolution before trial.

However, an expert must be prepared to provide trial testimony. This is where the “rubber meets the road”—the expert now has the opportunity to express his/her opinion and its basis through questioning by counsel. Questioning by opposing counsel will likely be the most grueling part of this process. Thorough research and fact-based opinions are the best defense.

In most cases, the expert will meet with counsel prior to testimony to develop a line of questioning that will present data reviewed, highlight the technical value of the material and underscore its basis as part of the opinion rendered. Counsel will also prepare an expert for cross examination, which is a critical component of trial testimony. During this process, the expert will be expected to provide a statement of and basis for all opinions; data and information considered; exhibits; qualifications (including publications from the preceding 10 years); compensation; and prior testimony (Lubet 42, 103).

During cross examination, opposing counsel may try to impeach the expert's testimony.

Impeachment is intended to discredit the witness as a reliable source of information. Successful impeachment renders the witness less worthy of belief, as opposed to merely mistaken or unobservant (Lubet).

Sources of impeachment may include:

- *Deposition*, particularly any inconsistencies between pretrial and courtroom testimony.

- *Reports* where the expert is unable to support information provided or provides contrary information.

- *Testimony*, particularly any inconsistent positions between prior testimony and current statements.

- *Publications* to ensure that what the expert has written and published is consistent with testimony being provided.

- *Public statements*, which may be gleaned from printed materials and interviews.

Finally, the expert must be organized. Since cases may endure for many years, files must be well arranged so the expert can recall the path followed to review facts and form an opinion.

CONCLUSION

Being an expert witness brings with it a great deal of responsibility. An expert

Tips for the Expert Witness

- An expert witness should select a compensation rate that matches his/her skills for reviews to be undertaken. Before the engagement begins, the expert and counsel should agree to a schedule for compensation and related charges.

- All payments should be made in full for activities prior to trial dates and testimony. A payment schedule for actual testimony should be developed as well.

- Be prepared to explain that you are being paid for your technical review and have been asked to render an opinion.

- Through questioning, counsel will establish what type of cases a given expert witness typically selects. Thus, it is best to work only on those cases where you can offer a technical review based on experience and education in order to offer an opinion. Simply put, you do not want to be known as a hired gun.

- Be prepared to outline education and experience under questioning in order to establish whether you are able to offer an expert opinion. Questioning will be extremely detailed in order to establish the expert's ability to render an opinion. If you cannot be qualified, you will not testify. Develop a curriculum vitae that will help counsel establish your credentials.

- Anyone can recite rules. The expert must understand how these rules apply to the given situation as well as the engineering principles and/or technical detail behind them. The expert must also have full understanding of the local rules and regulations, and federal and related consensus standards. Of even greater importance is the match between an expert's foundational education and practical experience.

- Never offer an opinion that is beyond your area of expertise. Advise counsel if additional assistance is needed to complete a review.

- Never write a report of findings unless requested. Attorneys will advise when a written opinion is necessary and whether it will be developed using the federal rules of expert disclosure or other form for presentation to the court. Once a report has been written, it is subject to court scrutiny. This is an area where communication between attorney and expert is critical.

- Do not limit your review to an initial fact or technical detail that appears to exactly fit the case. The technical review should address all possible aspects of accepted practice, technical detail and engineering need so you will be able to comment on them. Otherwise, you will be ill prepared for cross examination.

- An expert's effectiveness depends on the questioning and cross examination by attorneys. It can be frustrating to outline an opinion when questions cannot be formed and accepted by the court or over continuing objections. But that is the role of attorneys. They must present their cases in an accepted manner; questions must be formed based on facts of evidence, with opinions rendered extending from those facts. Thus, the expert must help the attorney develop a strategy that will lead to proper questions and establish the technical facts as you have determined them. The more complicated the case, the more critical this area becomes.

- Not all attorneys are skilled at trial. Experienced trial attorneys are readily visible by the time, detail and strategy they take in preparing an expert. The more skilled the trial attorney, the more effective expert testimony will be. The expert can also help a less-experienced lawyer format the thought process, particularly as it leads to the establishment of fact—up to the opinion. This foundation is critical to the court's understanding of information being presented. The more seamless the presentation—that is, without extensive objections that can negatively impact the detail and final opinion being sought—the better.

- Never compromise integrity by forming an opinion based on an initial review. You must proceed with an open mind and form opinions only after a full evaluation of the facts.

- Any inconsistencies—particularly with respect to prior testimony—will be discovered. To avoid this problem, stick to the facts and your expertise.

- Cross examination is usually the most challenging part of an expert's day in court. However, when your opinion is well founded and based on sound principles and fact, it presents another opportunity to support that opinion. Questions may also open the door for the expert to interject additional technical facts and understanding.

must understand the complex set of ethical issues involved and his/her potential role in the outcome of a given case. As a member of a professional community, the expert represents that community each time s/he renders professional services

and, therefore, must conduct business on a strictly professional level.

Honesty is the cornerstone of your ethical responsibilities. As one author put it, 'the product is on trial only once, but the technical expert's professional reputa-

tion is on trial every time he/she forms and defends an opinion.' Honest testimony and honest business conduct will form a solid foundation for your professional reputation and success (Sunar).

Providing expert support to litigation matters is a challenge. However, it presents safety engineers with an opportunity to truly heighten their awareness of technical detail, facts, rules, regulations and real-world occurrences while organizing thought and preparing a presentation through well-developed reasoning. ■

REFERENCES

Dorram, P.B. *The Expert Witness*. Washington, DC: Planners Press, American Planning Assn, 1982.

Sunar, B.V. *The Expert Witness Handbook—A Guide for Engineers*. San Carlos, CA: Professional Publications Inc., 1989.

Feder, H.A. *Succeeding as an Expert Witness, Increasing Your Impact and Income*. New York: Van Nostrand Reinhold, 2000.

Lubet, S. "Expert Testimony: A Guide for Expert Witnesses and the Lawyers Who Examine Them." Notre Dame, IN: National Institute for Trial Advocacy.

Baubert v. Meril Dell Pharmaceuticals Inc. 509 US 579 (1993).

Baker, T. "Deposition Practice and Practicality in State and Federal Court—An Operator's Manual for a Witness Chair." Milwaukee: Defense Research Institute, 1983.

John P. Coniglio, CSP, CHCM, CHMM, RPIH, is executive vice president, operations, and owner of Occupational Safety & Environmental Associates Inc., a consulting firm with offices in Orchard Park/Syracuse, NY, and Charlotte, NC. During his career, he has held various loss control and corporate safety positions. Coniglio has undergraduate degrees in fire protection, civil and industrial engineering technology, and an M.S. in Environmental Engineering. He is currently pursuing a Ph.D. in Environmental Engineering. In 1998, Coniglio was named Safety Professional of the Year by the Western New York Safety Council.

READER FEEDBACK

Did you find this article interesting and useful? Circle the corresponding number on the reader service card.

YES	36
SOMEWHAT	37
NO	38