

Rising Prices & Rising Expectations in Ontario

Written by Mark Monpetit | January 25, 2017

The use of expert evidence in litigation can be a powerful addition to a complex and complicated legal cause of action. Engineers are often called upon to lend their expertise and assist in a variety of cases, including equipment failures, accident reconstructions, design and mechanical flaws, building structural failures and aviation accidents. However, providing testimony means having some understanding and knowledge of what courts require and presenting your expert opinion within a proper legal context.

Given that the majority of cases are settled prior to reaching the court, many expert witness opinions are focused on formulating the expert written report. Preparing the written report can be a challenge for engineers who are not familiar with the legal system, the needs of a client and their duties to the court. Not only must their opinion be based on their expert knowledge, but it must be presented in a persuasive manner while maintaining an objective basis void of any bias.

Critical factors to be aware of when writing an expert report include:

- The rules of the court system and adherence to legal standards
- Types of communication allowed when formulating the draft report
- Writing persuasively without compromising independence
- Understanding how your report fits into your client's case
- Knowing your audience and structuring your report to speak their language

As litigation becomes more complex and expert witnesses are increasingly retained to testify in trial and alternative resolution disputes, it is critical they are up to date on the latest legal requirements and presentation technologies, and that they understand what lawyers look for when retaining expert witnesses.