



2026 SPRING CONFERENCE

April 29 - May 01

JW Marriott, Nashville, TN

NASHVILLE

Preparing an Expert Witness Report...

...that will hold up on Cross

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Accepting an Appointment

Only accept an appointment as an expert if you are truly and expert

- Basics are not enough
- Knowing both sides of an argument are important
- Having actually worked in the area of the dispute is critical

Understand the positions of both party and accept appointments only when you generally agree with the appointing party

- Lack of passion will become evident on cross

Clearly and professionally negotiate engagement terms in writing

Preparing the Expert Report

Research, research, research

- Make certain to search for public statements that you have made to eliminate the chance for contradictions
- Search for statements that the opposing expert has made to find inconsistencies

Read all the materials provided carefully

- The lawyers provide data for a reason
- Email messages are especially telling
- Become an expert on the reinsurance contract

Create a timeline of events, if applicable

Preparing the Expert Report - *Continued*

Create a new report

- Do not cut and paste any elements from previous Expert Reports
 - Your client deserves a fresh report
 - Cutting and pasting is lazy and dangerous

Selectively accept lawyer suggestions

- Do not blindly "accept changes" from lawyers
- Do not accept terms that you do not fully understand – this is **your** Report

The Expert is an expert

- Don't advocate for your side – remember that you are an expert
- Some differences in opinion may help your credibility

Preparing the Expert Report - *Continued*

Cite your references

- Make it easy for your team, opposing counsel and arbitrators to find sources

Cite your expert opinion

- Don't state things as facts when they are your opinion

Re-read your Report

- After the legal team is happy with your report, remember to re-read it
- If there are any errors or inconsistencies in your report, opposing counsel will find them and exploit them

Deposition

Lawyer Preparation

- This is the most valuable information that you will receive – accept it!

Be well rested, opposing counsel will try to tire you out

Read, re-read and re-re-read your report

- Don't get impeached – it is your report and you should know it better than opposing counsel

Take cues from your counsel

- When counsel objects to a question, it may give you a clue how to better answer it
- When to take breaks

Don't guess, assume, surmise

If you do not understand a question, ask for it to be repeated

Take your time

Other Expert Depositions

If possible, ask to sit in on the deposition of the opposing expert

- You can give questions to your counsel
- Hearing intonation is much better than reading a transcribed deposition

If possible, ask to sit in on fact witness deposition

- You can give questions to your counsel
- Hearing intonation is much better than reading a transcribed deposition

Hearing

Read your Expert Report and Deposition thoroughly

- Don't get impeached

Ask to sit in on the entire hearing

- Understand the “flow” of the hearing
- Learn what the arbitrators like and don't like
- Learn what questions the arbitrators are asking

Listen and learn from your counsel

- Pre-hearing preparation is more important than preparation for the deposition
- When your counsel objects, stop talking

Hearing - *Continued*

On direct, only answer the questions asked by your counsel
– they have a plan

On cross,

- Stay calm
- Answer honestly
- Don't advocate
- Listen to the question before answering
- Don't offer information not asked

Arbitrator questions

- Be respectful of arbitrator questions – period!