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Why You Need an Expert During Early Case Assessment



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As the subject matter of lawsuits become increasingly technical and specialized, experts remain part of litigation. Although an expert witness’s testimony can be incredibly impactful at trial, their involvement is just as valuable—if not more—when first assessing the case’s merits.

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scientific, medical, or technical concepts, an expert in their respective field can determine the viability of the case as well as the best strategies when going forward with litigation. Below are just a few ways in which an expert may help during early case assessment.

Reviewing Records

What may seem like a solid case to prove (or defend) on its face, can often become more complicated as the facts and evidence are unpacked and analyzed. Even the savviest of attorneys may not recognize a case's pitfalls during a preliminary review of the records. This is why an expert trained in the subject matter at issue can provide invaluable insight early in the litigation process.

Medical records, for example, can be notoriously voluminous and dense. A medical expert can review such records and determine the viability of a case in a relatively short amount of time in comparison to an attorney trying on their own.

If a case is scientific or complex enough to warrant an expert, then a review of its records and any other documentary evidence should be left to the expert as well. The earlier an expert reviews the evidence available to them, the earlier an assessment of the case can begin (and the retainment of a meritless case be avoided).

Assessing & Developing Facts

Reviewing records and developing the facts go hand-in-hand, but are not one and the same. Though the records are an important part of any case assessment, how the records fit into the bigger picture of presenting and proving the facts is another issue. Ideally, an expert will be able to not only review the available evidence but also craft a case theory that makes sense and is supported by the record. For example, a plaintiff in an automobile accident may have a plethora of medical

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theory and strategy.

Applying the Standard of Care to Determine Liability

Similarly, in order to properly assess a case, the issues of causation and liability

are paramount. When filing a lawsuit under a [negligence](#) theory, the plaintiff must prove:

1. the defendant owed them a [duty of care](#);
2. the defendant breached that duty;
3. the breach caused the plaintiff's injury; and
4. the plaintiff suffered [damages](#).

Therefore, an expert should, first and foremost, define what the standard of care is within that particular industry and how the defendant breached it. In cases of [medical malpractice](#), this would be "any act or omission by a physician during the treatment of a patient that deviates from accepted norms of practice in the medical community..." Of course, the "accepted norms of practice" will be case-specific and dependent upon the specialty and sub-specialty of the defendant physician, which is why an expert is all the more needed.

However, just because a defendant breached the requisite standard of care does not mean they necessarily caused the injuries. Causation in the legal context that may hold a defendant liable is referred to as [proximate cause](#). The defendant's negligence directly caused the injury. But there are a number of factors that may contribute to the injury that are completely independent of any action by a defendant (i.e., a plaintiff's existing injury prior to the defendant's conduct). When assessing whether a defendant can be held liable for their conduct, an expert must evaluate any and all variables that could arguably be contributed to the injury.

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Experts can assess a case in other ways beyond reviewing documentary evidence—they can also inspect and test the subject matter at issue themselves. Medical experts, for example, may conduct initial examinations of a plaintiff to determine their injuries. An accident reconstructionist may inspect the site of a crash. An engineering expert can test a product to determine if it was defectively manufactured or designed. Because an expert’s opinion must be based on [sufficient facts](#) or data that is the product of reliable principles and methods reliably applied to the facts, hands-on inspections and testing in the early stages can create a strong [foundation](#) for the case.

Overall, in any lawsuit where the subject matter at issue is scientific or complex or in nature, an expert witness can be an invaluable asset at any and all stages of litigation.

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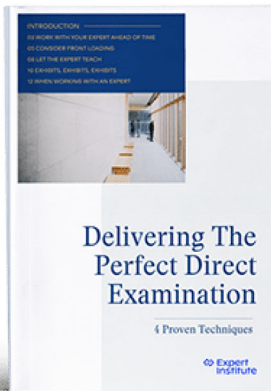
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