

## **FINDING A SPECIALTY EXPERT WITNESS**

**By Michael Panish**

The best expert is someone that has a lifetime of practical experience in his or her field of work.

Medical experts are relatively easy to find because of the high volume of medically related injury claims. Most attorneys can find a competent medical expert by asking for a referral or recommendation from fellow bar members. But, when the need arises to retain a specialty expert for a field that is unfamiliar to you or an expertise that you may not have realized existed, that is when it is critically important to focus your efforts in a different way.

### **SOLE SOURCE SPECIALTY EXPERTS**

If you are unfamiliar with the type of case that you are about to undertake, or feel that the case is surrounded with unusual circumstances, choices for an expert are often either sole source or very limited. This is the time when your immediate personal interaction with a prospective expert can mean everything to attain a positive future outcome for your client. Sometimes, quickly retaining that expert will assure you that the opposition cannot find a qualified opposing expert. As a result of your quick action, your claim may go unchallenged. Positive results can depend completely upon the competency and abilities of your chosen specialty expert. In addition, your expert is now no longer a potential threat from the opposition.

### **A BASIC SHOPPING LIST WHEN SEEKING A SPECIALTY EXPERT**

Although most cases never reach a courtroom, you want an expert that has the skills to fluidly communicate with everyone in the courtroom without sounding pompous or incompetent. Your case disposition and development depends upon the quality of reliable information provided by your expert throughout all phases of the action. An expert with an unbiased and professional reputation brings a level of expectation that strengthens your case. The opposition is probably aware of his reputation, and may have even used the expert on previous cases. The right expert brings a certain perception of clout to the opposing side, often your claim will be taken more seriously. It is highly important to find an expert that knows everything about the topic that he is providing expert services for.

### **INTERVIEW THE EXPERT YOURSELF**

The biggest mistake that most attorneys make when searching for the perfect expert is relying upon a clerk or intern to find and evaluate experts they are trying to hire. Whether your case is rock solid or precariously questionable, as the lead attorney you need to be the person that speaks directly with all potential experts. It may be easier to have your intern find you a list of leads, but that intern probably lacks the skills needed and specifics about your case to understand the real differences between finding “an” expert or finding “the right” expert.

### **GET YOUR SPECIALTY EXPERT ON BOARD EARLY**

The expert must be able to provide you with information from the outset of your case. An outstanding expert should be able to help you craft or defend your claim, provide information and questions to assist you during initial interrogatory phases, give you enough background details to find out the pertinent issues from the opposition, and help you interpret those responses. The assistance and constant involvement with the right expert will help you focus your efforts in the right direction. The truly knowledgeable expert can provide you with a wealth of information when you are deposing opposing parties. If your case ultimately does go to trial, you want an expert that can speak to everyone in the courtroom without talking down to them. A true expert must possess the ability to explain highly detailed and technical information to a layman juror without overpowering or boring the juror. The expert must captivate and educate the entire courtroom in order to get your message across successfully. If the expert you have chosen to hire puts you to sleep while casually conversing, imagine what effect that expert will have on a disinterested, tired jury.

## **IS THIS THE EXPERT'S FIRST TIME?**

Very few so called specialty experts are really very good. Their backgrounds do not support their opinions, and they tend to fall apart as the case develops. Many times, during deposition of an expert, it is learned through their testimony that this is their first case of this type. That expert has had no previous experience with anything relevant or pertaining to the claim. They “hem and haw” when challenged about their expertise, and defensively claim that they are generically qualified because they have some sort of vague experience that they can’t properly flesh out.

## **CALLING YOURSELF AN EXPERT DOES NOT ALWAYS MAKE YOU ONE**

In many claims opposing experts provide information in reports, depositions, and courtroom testimony that is simply unfounded and has no real world application. During site inspections, some experts completely miss the important points crucial to the case. If an “expert” doesn’t know what he is looking for, he definitely cannot help you with your case. The last thing any attorney needs to add to his caseload is to have to plug up holes made by blatant erroneous statements or rookie mistakes made by their expert. All because their expert really was not qualified for the case in the first place.

## **DOES YOUR EXPERT WORK FOR PLAINTIFF & DEFENSE?**

You should want an expert who is unbiased and will assess the situation and tell the truth. If you are the plaintiff’s attorney, you really need to know where you stand and whether your case is solid. If you are defending, you want to know whether your client was right or wrong. A true expert will lay everything out for you and tell you the truth. The information provided to you should be the same whether you are representing plaintiff or defense.

## **MORE TIPS TO FIND THE BEST EXPERT FOR YOUR CASE**

- Get an expert with many years of practical experience & thorough working knowledge in his expertise.
- Get an expert who has been retained on many similar cases like yours.
- Speak directly with your expert when interviewing, don’t rely upon an intern or paralegal to evaluate an expert using a canned list of generic questions.
- Don’t pick your expert based on his or her cost. Remember, you usually “get what you pay for”.
- Rely upon your expert to help you develop or defend your claim through all phases of your case.
- Retain your expert early in the claim. Missed opportunities for important discovery elements can create significant problems as your case develops.
- Communicate with your expert frequently. Make certain that your case is on track, and the information that is coming in from the opposition is evaluated and analyzed by your expert for any inconsistencies or further discovery needs.
- Use your expert to provide you with a level of knowledge that will help you get the correct answers you need, the first time. Develop the right questions ahead of any interrogatories or depositions. If your expert cannot provide you with appropriate probing questions, that expert does not have the depth of information that you need to support your case.
- Find an expert that is responsive to your needs and will give you immediate attention. A good expert should only be a phone call away.
- Avoid using a referral service out of expediency as these services generally do not have specialty experts in unusual fields. When you rely upon an agency for an unusual type of expert, they will usually tell you that they have someone in mind. In reality, most times they do not have any better contact for that specialty expert than you can make with a little research time on the internet. If the agency can find someone that may be qualified, then you can too. The agency will often mark up the cost of the expert to the end user and there is usually no guarantee made by the agency that the expert is qualified. Qualifications are usually left up to the attorney that is looking to hire the expert. If you need to qualify an expert provided by an agency, then you might as well cut out the middleman and spend the time directly looking for your own expert. It will save you time, money, and aggravation in the long run.

- Be persistent when searching for a specialty expert until you find the right expert for your case. A sophisticated website probably means you will find a sophisticated and experienced expert. A low quality or confusing website is most likely indicative of a lack of communication skills and poor marketing techniques. If an expert cannot sell his or her own services, how can that person sell critical points to make your case to a jury?
- Make certain that any expert you hire can stand up to the most basic “smell” tests. If you are having difficulty communicating with a prospective expert, there is little hope for your future working relationship with that expert. Remember that your choice of an expert with a peculiar personality could have future negative ramifications on your case. The chances are that a good initial phone conversation with a prospective expert will translate into a good courtroom witness. The jury will be impressed and feel comfortable listening to this expert express his opinions.
- Rely upon some of your associates that may have used a specialty expert in the past. But, check out that expert by browsing through his or her website for articles they have authored, CV, and testimonials by other attorneys.
- Don’t use a generic “one size fits all” formerly hired expert to pursue a specific claim with special requirements. Many attorneys often turn to a previous expert that they once used because it is just easier and less work to enlist someone they have used in the past. Most times, in specialty claims a generic type of expert will not fit the specifics of the case. Take the time to see what specialty experts really exist before hiring a generic “one size fits all” expert.
- Make sure that the expert you want to use has good verbal and written skills. See how you feel speaking to him during your phone interview. Would you want him in front of a jury explaining your case in a courtroom? You should come away with a feeling of confidence and support. Ask your prospective expert to direct you to any articles or trade publications he has written, and read them.
- Whether you are working for the plaintiff or defense, your expert should be completely unbiased. He should be able to uniformly apply his expertise based upon information provided, practical experience, and knowledge.
- If your prospective expert has been involved in numerous similar cases, it should be readily apparent to you when talking on the phone. If you feel bad about the responses you are getting, and feel like the prospective expert is not really giving you direct answers, keep looking until you find the right expert.

Mike Panish has a thorough working knowledge of all areas relating to construction and jobsite safety. His specialty fields of expertise include, but are not limited to, door injuries relating to manual doors, door hardware defects, and automatic doors. Mike is nationally and internationally recognized as the most frequently retained door expert, door hardware expert, and automatic door expert witness. Mike is highly skilled regarding defective cabinetry & architectural millwork elements. Mike has been retained on many cases relating to rape, elder abuse, premises security, and premises liability claims. A full list of Mike Panish’s expert witness services can be found at [www.ConstructionWitness.com](http://www.ConstructionWitness.com)

Mike Panish is a highly qualified expert witness and forensic analyst. He has been retained on over 900 cases to date, and retained by plaintiff and defense equally. Mike’s staff does a conflict check on all calls that come into the office as they are frequently contacted by multiple parties of the same case seeking his unique expertise. Many times a month, conflict checks have revealed that Mike has already been retained on the case by another party. Mike is the sole service provider for many of his fields of expertise. Mike has written an extensive library of published articles relating to his fields of expertise that can be found at [www.ConstructionWitness.com](http://www.ConstructionWitness.com). Testimonials made by legal professionals and case examples of actual claims are listed for your review.

You will not find a more thorough, comprehensive, and competent expert than Mike Panish. Immediate response to your immediate needs! Michael Panish is available for nationwide inspection and testimony and can be reached at 888-902-4272.