

Accounting Expertise in Litigation and Dispute Resolution

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This paper looks at the role of experts from both a United Kingdom and North America perspective. The paper starts by pointing out the important role of expert evidence in assisting the tier of fact. The distinction between accountants as fact witnesses and as expert witnesses is identified. The expert's primary obligation is to the court not the hiring party. Expert evidence is not a substitute for the exercise of the court's own judgement. The qualities of expert evidence are discussed, as are the significance of the necessary qualities of such expert evidence. A lack of these qualities increases the likelihood that civil liability will be imposed on expert witnesses. The paper outlines the steps to be taken in engaging expert accountants.

INTRODUCTION

This paper examines the role of expert witnesses generally, and specifically the role of accounting experts. The discussion is informed by UK common law, supplemented by references to cases and court rules from North America. The qualities of expert evidence, and civil liabilities applying to expert witnesses, are outlined. Cases (both those that go to court, and pre-trial proceedings) can benefit from accounting experts in a variety of ways which are summarized. Somewhat different professional standards apply to expert witnesses, compared with those applicable to other types of accounting assignments. The process of selecting and engaging accounting experts, including the matters to be included in engagement letters, is considered. The paper concludes with a discussion of accountants' fees in forensic accounting assignments.

ROLE OF EXPERT WITNESSES

An expert witness is one whose opinion a court or other tribunal is prepared to admit as evidence for the purpose of assisting in the resolution of a dispute or in arriving at the truth, and whose opinion is based on the application of particular expertise and knowledge to the relevant facts.