

## Distance and the Expert Witness

Recently I was discussing attorney inquiries with colleagues. One colleague related an engagement interview for a case in Texas that had resulted in the tragic and untimely death of a worker. The expert was contacted by an attorney assistant who was doing the initial leg work for the lead attorney. The assistant asked the expert to email his CV and retainer agreement and he complied.

A few days later the expert was contacted by the lead attorney, a friendly person with a deep Southern accent, a pleasure just to listen to. After several questions and 30 minutes of conversation, he explained the basic facts surrounding the case. The expert in turn provided some initial thoughts on the case. At the end of the conversation, the expert came away with the impression he would be retained because the attorney indicated he was genuinely impressed with the expert's previous related case experience and felt he was exceptionally qualified.

Several days later the expert was informed by the attorney's assistant he would not be retained. The reason stated was concern over distance because the expert was in a Northeastern state and the attorney was in Texas. He stated the distance would be inconvenient and the lead attorney would prefer someone local. The expert responded by saying distance in this day and age is rarely an obstacle nor is it generally considered inconvenient. However, the expert said he, of course, respected their decision, wished them the best and thanked them for the opportunity.

So, is distance really an obstacle or an inconvenience? For attorneys, choosing the right expert can make an enormous difference. Reasons for retaining the right expert should always focus on qualifications and experience. An expert, as in this case, with extensive experience in the specific type of case has far more value to the retaining counsel than a local expert with limited or no experience in this type of case.

The reasons are simple and clear.

- A) Evidence, the lifeblood of any case, is easily sent to the expert via mail or email. The cost for mailing or emailing evidence is minimal at best. The time it takes for the expert to receive it is also negligible.
- B) Emails and phone or online meetings allow for more than sufficient communication between the expert and the retaining counsel, negating the need for costly travel.
- C) Travel will generally only be required for deposition and trial testimony, and deposition testimony is normally at the expense of opposing counsel, if and when required.
- D) Travel cost round trip to Texas from the expert's state is \$1,300.00.
- E) Hotel, meals and transportation cost \$855.00, based on three days.

The question any attorney must ask himself or herself is this: Should the relatively negligible additional cost, in this case approximately \$2,155.00, related to travel eliminate a knowledgeable, experienced, and qualified expert from consideration?

The answer seems obvious – As admonished by Robert Burton, never be “Penny Wise and Pound Foolish.”

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