

Expert Witnesses

Expert Reports – Drafting Tips

A. Check-List

- ✓ Counsel should first meet with the expert to establish that the expert endorses the party's position.
- ✓ The expert must be identified in the expert report (full name, educational background and qualifications, description of the field of expertise, statement as to the scope of the expert's knowledge of the facts of the dispute).
- ✓ The scope of the expert opinion must be clearly set out, i.e., the question on which the expert has been asked to opine.
- ✓ The premises of the expert opinion should be clearly set out, for e.g., if the expert has been asked to assume certain facts.
- ✓ Use the first person singular (for e.g., "I" or "my").
- ✓ All technical terms/concepts for a non-specialist must be explained. It is advisable to make the explanation step by step.
- ✓ The language of the expert report must be chosen carefully with particular attention to the credibility of the expert, his/her exposure to cross-examination.
- ✓ The expert's credibility is usually assessed in light of his/her position, his/her ability to assess the facts and apply his/her special knowledge to the facts, the manner in which he/she opines on a certain issue (use of technical terms, clarity of the technical explanations, etc.), etc.
- ✓ The expert report should contain an express declaration that the expert understands his/her duty, is independent and impartial (e.g. no arrangement of payment depending on the outcome of the case, independent view, etc.) (cf: template of expert report).
- ✓ The expert report should also contain a so-called "Statement of Truth" according to which the expert also confirm that the report is based on the expert's true beliefs and to the best of his knowledge. (cf: template of expert report).