

Expert News - The Practice-Building Newsletter for Experts

March 2017

Expert News is a publication of [Expert Communications, Inc.](#), Expert Witness Marketing Consultants

Marketing Brief

Having Trouble Getting Paid?

My initial foray into the interesting world of expert witnesses was working for Texas Lawyer, a legal newspaper in the American Lawyer Media chain. When I started speaking at SEAK conferences, enlightening expert witnesses about marketing, I was surprised to learn that their main concern was not so much how to get more business as to how to get paid for business they already had!

Once I became an independent consultant I started coaching my expert clients on their engagement, billing and collecting issues. A few years later, SEAK came out with a comprehensive contract template. I frequently get my clients to buy that contract, and then together we personalize it to their particular practice.

Because I still get calls from experts about invoices not paid by their attorney clients, I want to revisit/reiterate my simple (though not always easy) formula:

1. Require a signed contract / engagement letter.
 2. Get a retainer, covering the amount of work you expect to do initially.
 3. In your contract state that “the retainer will be credited against the last invoice.” (This is a change I make to the SEAK contract, which says, “Expert will invoice against this retainer.”) After all, if your case review results in your telling your client, “Run, don’t walk, away from this case,” your initial invoice will probably be your last invoice. And, if not, See 4.
 4. Be true to your word – If you say you will credit against the last invoice, bill the full amount of the work you do next, while holding the retainer as insurance against not getting paid. In other words, always try (not always possible) to bill “against money in the shop.”
 5. Do not begin work until you receive the retainer. Do not bother to relate to me the sad tales of emergency need (read “last-minute”) by the attorney for immediate work, as I have heard them all before. This is 2017 – payment can be made immediately, in many ways, just as the files the attorney wants reviewed immediately can be sent to you quickly.
- v Not a part of financial health advice, but perhaps even more important – Emphasize in the initial inquiry call that, although the story related to you by the attorney sounds like something you can support, “I have to review the files before I can know that for sure, so do not name me as your expert until then.” I will not bore

you with the sad tales I've heard just in the last year of experts who agreed to the story and, after reviewing the files, saw completely different facts and were then in dire straits, as the named expert witness.

6. Invoice frequently, AT LEAST once a month.
7. Collect diligently. Because (See 8).
8. Here is the gutsy part – As soon as an invoice payment is late, stop work. Do I realize how difficult, how awkward that can be? Of course I do. But would you rather feel awkward with a non-paying client, or with your spouse because you are not forthcoming with the funds you have committed to the family budget? – Reality check.
9. Do not relinquish your trumps – Do not render an expert opinion or show up for deposition or court testimony with money owed to you AND without estimated time for deposition or court testimony paid in advance. After any of these events, the game may be over, so why, pray tell, should you then be paid?

Summary: If you manage to set up the admittedly challenging system of working against money in the shop, many of the other policies, including a signed contract, become unnecessary. But I urge you to be realistic, always. Consider how you can protect yourself against unscrupulous payers and always have backup, whether held retainer funds, a signed contract, or the willingness to stop work when not paid. You're a gutsy guy (male or female) or you wouldn't be willing to pose as target practice in deposition or court; carry over that courageousness into your financial policies.

-- by Rosalie Hamilton, the Expert's Expert on expert witness marketing. She consults and coaches and provides full-service marketing for experts, including web site development. She is the author of **The Expert Witness Marketing Book**

Quote

"If you choose not to decide, you still have made a choice." "Freewill" by Rush

Expert Excerpt Roundup

Note from Meredith: Technology and body language. These might sound like very different subjects at first glance, but they are both methods of communication that can either work for you or against you.

Here are two articles on Effective Use of Technology in the courtroom - [one written by an attorney](#) for the American Association of Justice and [one written specifically for expert witnesses](#) on the IMS Experts blog.

What are you communicating even when not speaking? First, an article by a national trial consultant outlining [five essential non-verbal skills for expert witnesses](#) and second, a body language expert with [body language tips for testifying as an expert witness](#).

And finally, some random dates for expert witnesses:

In 1554, the English courts endorsed the use of court-appointed experts to resolve scientific issues.

1665 marks the first recorded use of expert witnesses in the United States, a trial involving witches.

1897 is the year lawyers in the United States questioned how expert witnesses could reach contradictory conclusions, causing concern about the use of expert witnesses (and one could surmise, ultimately leading to Frye and Daubert standards years later).

Client Feedback

“Thanks Rosalie! My billings have more than quadrupled since revising my website according to your recommendations.” - *Engineer*

“I have renewed the three listing services you recommended. As you predicted, the inquiries and work have grown exponentially so that I am getting at least one call a week from all over the country. They all mention how impressive my resume is, which I attribute to your editing.” - *Surgeon*

“Rosalie Hamilton is and always will be the key to the success of my expert witness business. Her insight and foresight have been the fuel that drives my connection with new clients, my analytics, my report writing and every other aspect of my business. She is the expert witness guru.” - *Packaging Expert*

Fine Print

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Grow your expert witness practice.

We help expert consultants get more clients and cases through proven-effective and legal-appropriate marketing strategies, individually customized for each expert or firm. Websites, marketing materials, advertising and listing recommendations are some of the things we do.

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