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American Bar Association Litigation Section

Quick Tips for Selecting an Expert Witness

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The process of researching and identifying an expert witness can be a daunting task in a complex commercial litigation setting. However, securing the appropriate expert tailored to your needs can be a critical component of a successful litigation strategy. While there is no exact formula for expert witness selection, the following pointers can help lead your team towards the right witness and a favorable outcome:

- **Utilize your colleagues and network.** When starting your search for an expert witness, polling your colleagues and other connections in the legal field can instantly provide you with multiple favorable candidates. Furthermore, your network may be able to significantly narrow your search down to a few options that will fit the needs of your case. This option is also particularly helpful for lesser-experienced attorneys who might be starting an expert search for the very first time.
- **Google is your friend.** Litigation attorneys may joke about relying on Google for legal research, however, an expert-witness search is actually an appropriate opportunity to fire up the search engine. Google (or another search engine) allows you to cast a wide net to build your list of expert candidates prior to a more formal vetting of your options.
- **Vet your candidates with Westlaw or Lexis.** Once you have narrowed your search down to your favorite expert candidates, Westlaw and Lexis provide excellent tools for vetting your candidates' background and history serving as an expert witness. In particular, these legal databases allow you to examine past cases in which the candidate has provided expert testimony, prior expert reports submitted in those cases, deposition transcripts (if available), and any motions in limine/to exclude the candidate's testimony.
- **Interview your top choices.** An in-person or web-conference interview is the last critical step in selecting your top choice to serve as an expert witness. The interview provides you with an opportunity to explain the case in deeper detail, as well as ask the candidate key questions to evaluate their understanding of the subject matter and ability to handle the particular issue for which expert testimony is required. Additionally, the interview allows you to evaluate the witness's presentation skills, speaking style, and poise when answering questions. Ultimately, you will want your candidate to excel in each of these categories if you need to call them to the stand to testify at trial.

Sometimes an expert witness search may begin with only a handful of candidates, and other times you may need to narrow the list down from several dozen options. The foregoing tools should provide practitioners with a good template for conducting a

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thorough and effective expert witness search when preparing for success in their next big case.