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2019

Expert Witness Fees & Practices Survey

Executive Summary Report

BY *Gerry H. Goldsholle, Member California
& New York Bars*

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Fees & Practices Survey Report

About This Report

This year, as we have done on at least a biennial basis for over a decade, Advice Company's ExpertPages unit conducted a detailed survey among experts in multiple fields who were actively working as expert witnesses or litigation consultants.

In addition to inviting participation from a cross-section of ExpertPages Members, we also invited participation response from a cross-section of non-member experts to both expand the universe of experts surveyed and to serve as a control group.

The Survey, conducted entirely online, is based on the confidential responses from more than 700 experts in numerous fields throughout North America. Of the total, approximately 25% were current ExpertPages accredited Members and 75% were not. The Survey questionnaire asked more than 25 questions, with additional questions added to enable respondents to elaborate based on their field of expertise or earlier responses.

The experts candidly shared facts about their work, fees, and arrangements with clients, knowing that their responses would be kept completely confidential, not attributed to them, and be used only in aggregate form.

We, together with DeBow Communications, Ltd., an independent market research firm, have carefully analyzed the data to ensure that the Comprehensive Report would be as reliable and valuable as possible for experts as well as attorneys and other members of the legal profession that retain experts. Unless otherwise noted, the data reported is based on a sufficient number of responses to provide statistical validity. To help determine relevant trends, where meaningful, we have also compared the results of this Survey with previous ExpertPages Fees & Practices Surveys.

This Executive Summary of the Expert Witness Fees & Practices Survey Report provides real world answers to some of the most asked questions regarding the fees and practices of expert witnesses and litigation consultants.

Copies of the full, comprehensive Report – free to ExpertPages Members – are available to non-Members for \$150 directly on Amazon, or by contacting ceo@expertpages.com.

Gerry H. Goldsholle
Founder & CEO
Advice Company

A Note on Terminology

Expert Witness / Litigation Consultant

The term “expert witness” generally refers to experts who are expected to prepare a formal report to be filed with a court or administrative agency and/or to testify as an expert in a pre-trial deposition and/or at trial in the litigation.

The term “litigation consultant” typically refers to an expert, often a professional, who works with attorneys to analyze and confidentially report on relevant factual issues requiring special expertise, either before or after litigation commences. Most experts generally serve in both capacities. In this report, unless otherwise specified, we will describe all experts surveyed as an “expert.”

Case / Engagement / Assignment / Project

Attorneys and insurance company executives will generally use the term “Case,” whereas experts tend to use the terms “Engagement,” “Assignment” or “Project” when referring to the same matter. In this report, we will use the terms “case” and “engagement” synonymously.

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<http://ExpertPages.com/survey2019>

Methodology

Advice Company’s ExpertPages unit retained DeBow Communications Ltd., New York, NY (www.debow.com), an independent market research firm, to conduct an online survey of professionals identified as expert witnesses or litigation consultants.

More than 700 responses from experts in numerous fields throughout North America contributed to the survey. Of the total, approximately 25% were current ExpertPages accredited Members and 75% were not. The detailed survey covered numerous facets of each professional’s involvement in expert witness or consulting work. The Survey was conducted from November 2018 through February 2019. The margin of error is +/- 3.6 percentage points overall, although margins of error are higher in sub-groups. Subsequent to the closing date, numerous individual and sub-group interviews were conducted to clarify certain verbatim comments.

This project is a collaborative effort with invaluable input and analysis from our consulting statistician, Suzy Fuquea, and key staff members of Advice Company.

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2330 Marinship Way, Suite 120
P.O. Box 1739
Sausalito, CA 94966-1739

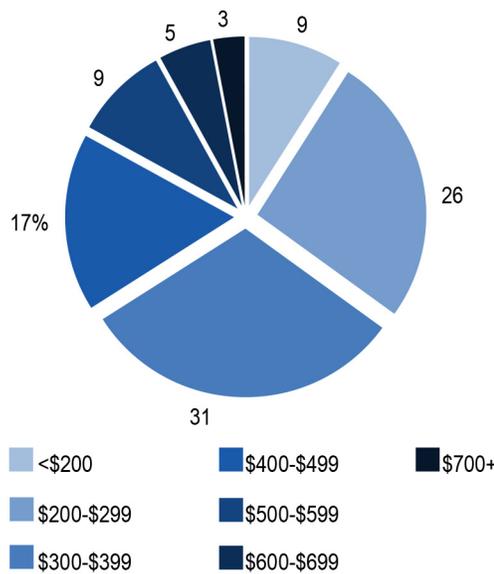
Executive Summary

What Experts Charge

We found that virtually all experts base their charges using an hourly rate plus expenses, either exclusively, or by using a combination of a flat fee and an hourly rate. Reported rates ranged from a low of \$150 per hour to over \$900 per hour. On average, slightly more than a third (35%) of respondents reported a general hourly rate of less than \$300 per hour. Less than a third (31%) said their general hourly rate was between \$300 and \$400 dollars per hour and an additional third (34%) charged in excess of \$400 per hour. A few (3%) charged more than \$700 per hour.

What is your general hourly rate?

Response Scale = < \$200, \$200-\$299, \$300-\$399, \$400-\$499, \$500-\$599, \$600-\$699, \$700+

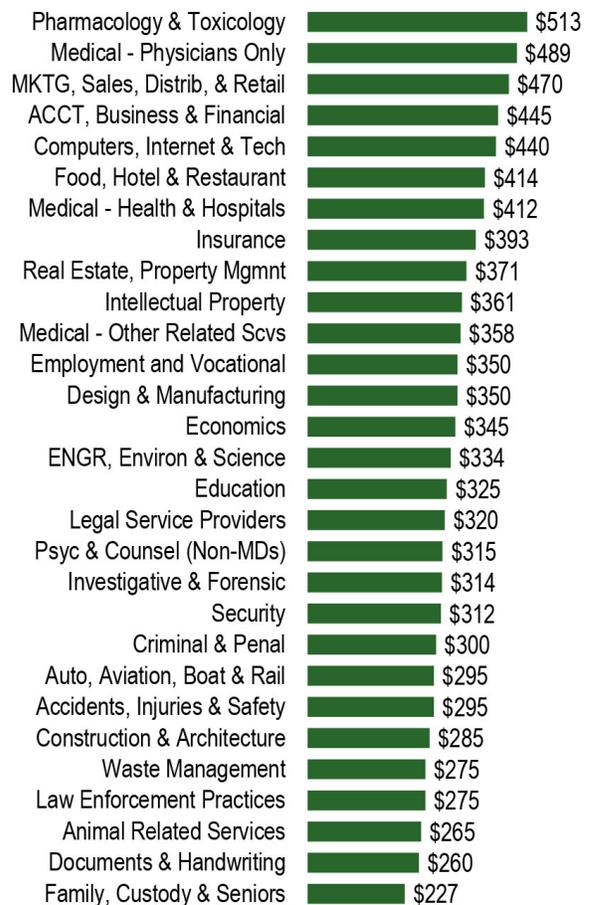


Utilizing an average of the ranges, our 2018 estimated average hourly rate overall is \$367, an increase of \$26 (7.6%) over 2016's average hourly rate of \$341. This meaningful change continues the upward trend from 2014 at \$326 (up 3.8%) whereas in 2008 (\$308), 2010 (\$312), and 2012 (\$314) average hourly rates were statistically unchanged.

We explored the many factors that contribute to the variation in hourly rates and earnings among individual experts including Field of Expertise, Geographical Location, Number & Duration of Engagements and Expected Earnings on a per engagement basis. Field of Expertise, as in the past, proved to be the most consistent predictor of average hourly rates. Pharmacology & Toxicology (\$513) and Physicians (\$489) lead all fields, while experts in Family, Custody & Seniors matters (\$227) trail all others.

What is your general hourly rate?

Response Scale = \$s per Hour



Executive Summary ... contd.

Our examination of other factors contributing to the variation in hourly rates showed no clear predictive patterns; however they provide a much better understanding of the totality of the highly complex expert witness space.

For example, although Documents & Handwriting experts charge among the lowest hourly rates (\$260) of all the expert fields, they also report the highest number of new engagements each year (34). As they typically spend relatively few hours (10) on each engagement, they yield average expected earnings per case of \$2,600. Physicians, on the other hand, have very high hourly rates (\$489), fall mid-range in terms of the number of new engagements (15) each year, and spend an average of 22 hours per expert engagement, yielding average expected earnings per case of \$10,758.

Computers, Internet & Technology experts have relatively lower hourly rates (\$440 vs. \$489 for Physicians), and average nearly the same number of new engagements (14 vs. 15 per year for Physicians). However, Computers, Internet & Technology experts report that they devote a dramatically greater number of hours per average engagement (101) than Physicians (22).

The one important caveat being that these are all averages, and most experts – as we discuss later in this report – do this work on a less than full-time basis, for a wide variety of clients.

How Experts Construct Their Rates

Beyond “Field of Expertise,” the other factors we found to have the most effect on experts’ rates were Experience, Prominence/Celebrity/Insider and Nature of Clients. As expected, we found that experts’ average hourly rates tended to rise with experience. New experts – those with less than three years’ experience – charge lower hourly rates on average (\$241), than experts with ten to nineteen years’ experience (\$373). Of interest is the unusually lower average hourly rate (\$368) for those experts with twenty or more years’ experience. In further reviewing the data, this was explained by a possible overweight in our sample of lower fee “Fields” and “Fully Retired” experts.

Another possible factor that appears to have contributed to these survey results is what may be termed the Prominence or Celebrity of the expert, a phenomenon which also appears in several fields and experience bands.

While working for Plaintiffs (Plaintiffs, Claimants, Prosecutors) rather than Defendants (Defendants, Insurers) is generally more lucrative, working exclusively for the Plaintiffs side is clearly the path to higher average hourly rates. On average, experts who work Exclusively for Plaintiffs, earn 24% more per hour (\$341 vs. \$274) than those that work Exclusively for Defense.

As expected, those with a mix of clients earned 36% more than those who work Exclusively for Defendants (\$372 vs. \$274). Unexpectedly we found that the mix – either mostly Plaintiff at \$367, or mostly Defendant at \$363, made no statistical difference.

Executive Summary ... contd.

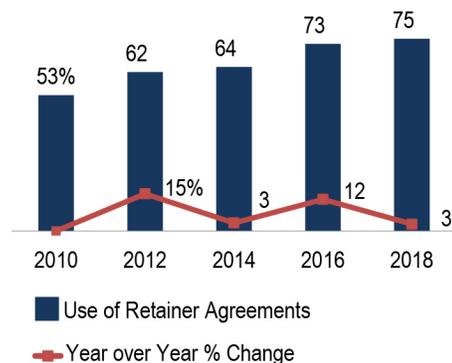
Experts are becoming more willing to negotiate their rates & fees. An expert's base rate often contains built-in adjustments involving a higher fee for depositions and court appearances and a lower base rate for non-productive travel time. However, apart from the built-in adjustments that they use on all cases, more than half of experts (52%) will make adjustments in their rate schedules based on the nature of the case, the client, or the circumstances. Among the experts who report that they do vary their fees – either higher or lower – by case, their reasons for doing so ranged from “Whether I have to pay a referral fee” (mostly higher) to “The ability of the client to afford my fees” (mostly lower).

Other Important Takeaways

Use of Written Fee Agreements (WFA) continues to grow. Three-out-of-four (75%) experts now use formal, signed Retainer Agreements all of the time, most of the time, or except for Former Clients or Government Agencies. The remainder either use a WFA sometimes (12%), or only when a client insists (13%). The use of a WFA most or all of the time by 75% in 2018 continues the uptrend in the use of formal, signed Retainer Agreements from previous surveys in 2010 (53%), 2012 (62%), 2014 (64%) and 2016 (73%).

Use of Retainer Agreements

Response Scale = Year over Year % Change, Use of Retainer Agreements



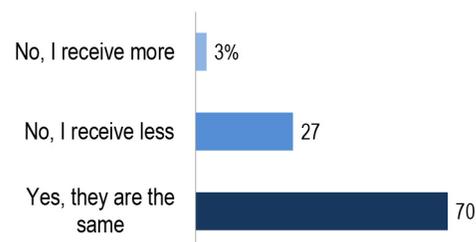
Generally require a minimum fee for engagements. A majority (60%), Always or Most Often, require a minimum fee for engagements. One-in-four (24%) – Rarely (8%) or Never (16%) – require a minimum fee. A majority (69%) set that minimum fee between \$1,000 and \$5,000.

Rarely have trouble collecting fees. Other than the occasional slow pay experienced by many businesses today, most experts (81%) – only occasionally (33%), rarely (25%) or never (23%) – have collection issues. Very few (2%) reported that they quite often experience collection issues.

Most Experts do some work through referral agencies. Almost three-in-four experts (73%) currently are working with referral agencies. Although most of those report that they receive the same rates (70%) as when they are working directly with attorneys, more than one-in-four (27%) report that, when working with referral agencies, the rates they receive are lower than the rates they earn when they deal directly with attorneys.

When working through referral agencies, are the rates you receive the same as what you receive when working with attorneys directly?

Response Scale = Yes, they are the same, No, I receive less, No, I receive more



Executive Summary ... contd.

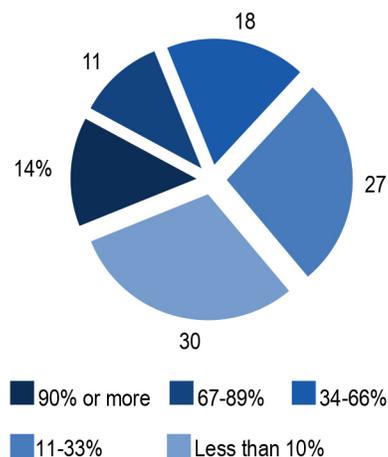
Experts generally do this work on a less than full-time basis. Almost six-in-ten experts (57%) spend less than one third of their professional time as an Expert Witness or Litigation Consultant with 30% stating Less than 10% and 27% stating 11-33%. This year the Median falls in the 11-33% range as compared to the 34-66% range in previous years.

Most experts work independently, as sole practitioners, with a small staff, if any. The great majority (81%) are either self-employed with a small staff, if any (70%), or work in a professional firm but are the only one that does Expert Witness/Litigation Consultant work (11%). Less than one-in-five (19%) work in a professional firm with others who do Expert Witness / Litigation Consultant work (9%), or in an academic institution (8%) or for a governmental agency (2%).

Few are employed, full-time, as expert witnesses or litigation consultants. Only one-in-five (20%) work full-time for a firm that is primarily involved in Expert Witness / Litigation Consulting work.

Approximately what percentage of your professional time is spent as an Expert Witness and / Litigation Consultant?

Response Scale = 90% or more, 67-89%, 34-66%, 11-33%, Less than 10%



Most Experts have One Curriculum Vitae (CV), and review it on a periodic basis. Almost seven-out-of-ten experts (67%) have one Curriculum Vitae (CV) and use the same one for both their normal profession as well as for their Expert Witness work.

Less than half (42%) review their CVs only when they add new information with an additional 45% doing so Quarterly (18%), Semi-Annually (11%) or Annually (16%). The remaining 13% do so only Occasionally.

Experts are not overly concerned regarding Identity Theft or negative Social Media impacts.

The clear majority of Experts (between 61 – 71% in each instance) did not seem overly concerned with Hacking, Identity Theft or negative Social Media impacts.

Somewhat surprisingly, Social Media issues generated the least concern, with only 29% checking their LinkedIn or other Social Media listings to ensure that their listing had not been tampered with either Often (20%) or Very Often (9%).

Reviewing their website for hacking, and Searching their name for disparaging comments, saw increased concern with 39%, in each instance, saying Often (28%) or Very Often (11%). While an overall increase of 34% over Social Media (39% vs 29%), it is still overall of far less concern than one would have anticipated in the current climate with hacking/ trolling in the news everyday.

ExpertPages Members have higher average hourly rates and more yearly engagements than non-members. In the past year, the average hourly rate of ExpertPages Members (\$373) was 2% higher than that of non-members (\$365). Members also averaged a 22% higher number of engagements (17) than non-members (14).

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Contact Information

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a unit of

AdviceCompany™

a Public Benefit Corporation

Headquarters
2330 Marinship Way, Suite 120
Mailing Address
P.O. Box 1739
Sausalito, CA 94966-1739

Membership Information

Email: survey@expertpages.com

Phone: 415.339.6512

