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2021 Expert Witness Fees & Practices Survey

Top Line Report

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Overview

This Top-Line Data Report provides the media with a brief look inside the fascinating and rarely understood world of expert witnesses and litigation consultants. It will be followed shortly by the release of the Comprehensive Cross Tab Report of the findings of this important biennial survey containing greater detail on Experts' Fees (by Field of Practice, Expected Earnings, etc.) and Practices (use of Retainer Agreements, Travel, etc.).

These Reports provide answers to the tens of thousands of lawyers, experts, insurance professionals, and others who come to ExpertPages.com each month to seek and learn about expert witnesses. Easily their most frequent question is: "How much do Expert Witnesses charge?" For the media, extracts from this report may be quoted with attribution and citation to: <https://ExpertPages.com>.

Since its founding as the first Online directory of experts in 1995, ExpertPages has been committed to providing its Members with a comprehensive, research-based resource dedicated to assisting them in starting, running, and managing their professional expert witness and/or litigation consulting practices. ExpertPages.com has also served the legal, governmental, and insurance communities as the premier resource to find highly qualified and credentialed experts online.

As the data clearly shows, serving as an expert witness or consultant in litigation is NOT an everyday, full-time activity for most experts, nor is retaining an expert typically a regular activity of most lawyers. Thus, keeping abreast of all the latest trends that are shaping expert witness fees and practices can be daunting. The ExpertPages biennial surveys comprehensive report – provided at no cost to each of our Members – provides both the expert and the attorney with invaluable insights into the activities of their peers.

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 400 responses from experts in numerous fields throughout North America contributed to the survey. Of the total, approximately half (51%) were current ExpertPages accredited Members. The detailed survey covered numerous facets of each professional's involvement in expert witness or consulting work. The Survey was conducted from 11/15/2020 through 2/7/2021. At the 95% confidence level, the margin of error is +/- 4.9 percentage points overall, although margins of error are higher in sub-groups. Due to rounding, numbers presented throughout this Report may not add up precisely to the totals provided and percentages may not precisely reflect the absolute figures.

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A Portrait of a “Typical” Expert Witness

Although defining a “typical” expert witness is about as easy as defining a “typical” snowflake, a closer inspection revealed some defining observations.

Experience as Expert Witness

Median Years of Experience as an Expert Witness / Litigation Consultant falls in the 10 – 19 year range. More experts answered that they had > 20 years than any other range.

| | | | |
|-------------|-----|---------------|-----|
| < 3 years | 3% | 10 - 19 years | 30% |
| 3 - 5 years | 10% | > 20 years | 45% |
| 6 - 9 years | 12% | | |

Most Experts spend only a portion of their time doing expert witness/litigation consultant work.

Current Employment Status

| | |
|------------------------------------------------------------------------------------------------------------------------------|-----|
| Currently work full-time for a firm primarily involved in Expert Witness work | 19% |
| Currently work full-time for a firm NOT primarily involved in Expert Witness work but spend some time on Expert Witness work | 26% |
| Semi-retired from my normal profession and spend some time on Expert Witness work | 24% |
| Fully retired from my normal profession and spend some time on Expert Witness work | 19% |
| Other (Please Specify) | 14% |

Less than one-in-five (19%) work full-time in Expert Witness / Litigation Consulting firms, and a full quarter (26%) work full-time at non Expert Witness Firms (accounting/engineering, etc.) and do some Expert work. An additional four-in-ten (43%) are semi (24%), or fully retired (19%) and are doing expert witness/litigation consulting work on a part-time basis.

Percentage Time Doing Expert Witness / Litigation Consultant Work

| | | | |
|----------|-----|----------|-----|
| < 10% | 22% | 67 - 89% | 14% |
| 11 - 33% | 22% | > 90% | 22% |
| 34 - 66% | 20% | | |

Median falls in the 33 - 66% range, twice the 11 – 33% median in both 2017 and 2019.

A Portrait of a “Typical” Expert Witness ... contd.

Compensation

Nearly all experts are paid, at least in part, on an hourly basis for their expert work.

| | |
|------------------------------------------|-----|
| Hourly Rate | 88% |
| Flat Fee | 2% |
| Combination Flat Fee with Hourly Rate | 10% |

98% charge on an Hourly Fee (88%), or a combination of Hourly Fee and Flat Rate basis (10%), the same as in 2017 and 2019.

Average Hourly Rate

Average overall hourly rate is \$391 (using an average of the ranges), up from \$341 in 2017 and \$367 in 2019.

| | | | |
|---------------|-----|---------------|-----|
| < \$200 | 6% | \$400 - \$499 | 21% |
| \$200 - \$299 | 22% | \$500 - \$599 | 10% |
| \$300 - \$399 | 29% | \$600 - \$699 | 8% |
| > \$700 | 2% | | |

Travel

Almost nine out of ten experts (86%) say their work involves some travel.

| Work involves travel | | Percentage of time away from workplace | |
|----------------------|-----|----------------------------------------|-----|
| Yes | 86% | < 10% | 71% |
| No | 14% | 11 - 25% | 20% |
| | | 26 - 50% | 6% |
| | | 51 - 75% | 2% |
| | | > 75% | 2% |

However, the clear majority (71%) spend less than 10% of their time away from their workplace on an assignment.

Key Findings

- Median Years of Experience as Expert Witness / Litigation Consultant falls in the 10 - 19 year range. More experts answered that they had more than 20-years experience than any other range.
- Less than one-in-five (19%) work full-time in Expert Witness / Litigation Consulting firms, and a full quarter (26%) work full-time at non Expert Witness Firms (accounting/engineering, etc.) and do some Expert work. An additional four-in-ten (43%) are semi (24%), or fully retired (19%) and are doing expert witness/litigation consulting work on a part-time basis.
- Nearly all experts are paid, at least in part, on an hourly basis for their expert work. 98% charge on an Hourly Fee (86%) or a combination of Hourly Fee and Flat Rate basis (12%).
- Average overall hourly rate is \$391 (using an average of the ranges) up from \$341 in 2017 and \$367 in 2019.
- Almost nine out of ten experts (86%) say their work involves some travel.
- A full three-quarters of respondents (75%) have been doing expert witness or litigation consulting work for more than ten years, while 3% have less than three years' experience.
- More than half of respondents (53%) take on less than ten cases each year, while less than one-in-ten (6%) take on fifty, or more.
- Interestingly, fewer than one-in-four experts (22%) spend 10% or less of their professional time as expert witnesses making them classically "occasional" experts, while an equal percentage (22%) spend 90% of their professional time as expert witnesses or litigation consultants.
- Overall more than half (64%) of Experts surveyed average between ten and forty-nine hours on each engagement. Of interest are the 10% who spend 100 hours or more (8%) and the few (2%) who average 250 hours or more.
- Essentially two-out-of-three (63%) use written fee agreements Every / Most of the time, while 18% "Only use written fee agreements if a Client insists."
- A clear majority (63%) require a minimum fee to take on a new engagement. Relatively few (14%) never do so, and one-in-four (24%) do not do so on a regular basis.
- A majority's (69%) minimum fee falls within the \$1,000 - \$5,000 range. One-in-ten (10%) charge a minimum fee of less than \$1,000, while very few (4%) have a minimum fee of \$10,000 or more.

Key Findings ... contd.

- More than half (53%) reported a general hourly rate between \$200 and \$399 per hour. Approximately four-in-ten (41%) charged in excess of \$400 per hour, including very few (3%) charging \$700 per hour, or more. Average overall hourly rate is \$391 (using an average of the ranges) up from \$341 in 2017, and \$367 in 2019.
- Nearly one-in-four (24%) of experts expect to earn less than five thousand dollars on a typical engagement, while four in ten (38%) report earning more than ten thousand dollars but less than \$50,000. One-in-ten (9%) of experts overall expect to earn more than fifty thousand dollars on their typical case.
- Substantially fewer than half (43%) indicated that they sometimes negotiate their Rates & Fees, 57% said they did not, except when dealing with Current/Past Clients and Governmental Agencies.
- Two-of-three (66%) have not increased their rates/fees in 2020, but 10% are planning to do so in 2021.

Narrative Summary

1. How long have you been doing expert witness or litigation consulting work?

| | | | |
|------------------|-----|--------------------------|------------|
| < 1 year | 1% | | |
| 1 - 2 years | 2% | Two Years or Less | 3% |
| 3 - 5 years | 10% | | |
| 6 - 9 years | 12% | Ten Years or More | 75% |
| 10 - 19 years | 30% | | |
| 20 years or more | 45% | | |

A full three-quarters of respondents (75%) have been doing expert witness or litigation consulting work for more than ten years, while 3% have less than three years' experience.

2. Approximately how many new cases / engagements do you take on each year?

| | | | |
|---------------|-----|------------------------------|------------|
| 1 - 3 cases | 23% | | |
| 4 - 9 cases | 30% | Less than Ten Cases | 53% |
| 10 - 24 cases | 30% | | |
| 25 - 49 cases | 12% | More than Fifty Cases | 6% |
| 50+ cases | 6% | | |

More than half of respondents (53%) take on less than ten cases each year, while less than one-in-ten (6%) take on fifty, or more.

3. What percentage of your professional activity consists of work as an expert witness and/or a consultant in legal-related matters?

| | | | |
|-------------|-----|--------------------|------------|
| 10% or less | 22% | | |
| 11 - 33% | 22% | 10% or Less | 22% |
| 34 - 66% | 20% | | |
| 67 - 89% | 14% | 67% or More | 22% |
| 90% or more | 22% | | |

Interestingly, fewer than one-in-four experts (22%) spend 10% or less of their professional time as expert witnesses making them classically "occasional" experts, while an equal percentage (22%) spend 90% of their professional time as expert witnesses or litigation consultants.

4. On average, how many hours do you spend on each engagement?

| | | | |
|--------------------|-----|--------------------------|------------|
| Less than 10 hours | 15% | | |
| 10 - 24 hours | 33% | 10 to 49 Hours | 64% |
| 25 - 49 hours | 31% | | |
| 50 - 99 hours | 12% | 100 Hours or More | 10% |
| 100 - 249 hours | 8% | | |
| 250 hours, or more | 2% | | |

Overall, more than half (64%) of experts surveyed average between 10 and 49 hours on each engagement. Of interest are the 10% who spend 100 hours or more (8%) and the few (2%) who average 250 hours or more.

Narrative Summary ... contd.

5. Do you always insist on a formal, signed, Retainer Agreement?

| | | | |
|-------------------------------------------|-----|---------------------------------|------------|
| Yes, for every client on every assignment | 48% | | |
| Yes, Most of the Time | 15% | Every / Most of the time | 63% |
| Yes, but not for Former Clients | 10% | | |
| Sometimes | 10% | Only when client Insists | 18% |
| Only when Client insists | 18% | | |

Two-out-of-three (63%) use written fee agreements Every / Most of the time, while 18% "Only use written fee agreements if a Client insists."

6. Do you require a minimum fee to take on a new engagement?

| | | | |
|------------|-----|----------------------------|------------|
| Always | 45% | | |
| Most Often | 18% | Always / Most Often | 63% |
| Never | 14% | | |
| Rarely | 12% | Rarely / Never | 24% |
| Sometimes | 12% | | |

A clear majority (63%) require a minimum fee to take on a new engagement. Relatively few (14%) never do so, and one-in-four (24%) do not do so on a regular basis.

7. What is your minimum fee?

| | | | |
|---------------------|-----|---------------------------|------------|
| Up to \$499 | 2% | | |
| \$500 - \$999 | 8% | \$1,000 - \$4,999 | 69% |
| \$1,000 - \$2,499 | 28% | | |
| \$2,500 - \$4,999 | 41% | More than \$10,000 | 4% |
| \$5,000 - \$9,999 | 17% | | |
| \$10,000 - \$24,999 | 3% | | |
| \$25,000+ | 1% | | |

A majority's (69%) minimum fee falls within the \$1,000 - \$5,000 range. One-in-ten (10%) charge a minimum fee of less than \$1,000, while very few (4%) have a minimum fee of \$10,000 or more.

8. Do you generally charge an hourly rate or a per-case flat fee?

| | | | |
|-----------------------------------------|-----|-----------------------------------|------------|
| Hourly Rate | 88% | Hourly Rate or Combination | 98% |
| Per-Case Flat Fee | 2% | | |
| Combination of Flat Fee and Hourly Rate | 10% | Per-Case Flat Fee | 2% |

Virtually all (98%) experts charge an hourly rate (88%), or a combination of a flat fee and hourly rate (10%). Few (2%) exclusively charge a per-case flat fee.

Narrative Summary ... contd.

9. What is your general hourly rate?

| | | | |
|---------------|-----|---------------------------------|------------|
| < \$200 | 6% | | |
| \$200 - \$299 | 22% | \$200 - \$399 per hour | 53% |
| \$300 - \$399 | 31% | | |
| \$400 - \$499 | 21% | More than \$400 per hour | 41% |
| \$500 - \$599 | 9% | | |
| \$600 - \$699 | 8% | | |
| > \$700 | 3% | | |

More than half (53%) reported a general hourly rate between \$200 and \$399 per hour. Approximately four-in-ten (41%) charged in excess of \$400 per hour, including very few (3%) charging \$700 per hour, or more. Average overall hourly rate is \$391 (using an average of the ranges) up from \$341 in 2017, and \$367 in 2019.

10. What is the total compensation you expect to earn on a typical engagement?

| | | | |
|---------------------|-----|---------------------------|------------|
| < \$2,500 | 7% | | |
| \$2,500 - \$4,999 | 17% | Less than \$5,000 | 24% |
| \$5,000 - \$9,999 | 30% | | |
| \$10,000 - \$24,999 | 27% | More than \$10,000 | 47% |
| \$25,000 - \$49,999 | 11% | | |
| > \$50,000 | 9% | | |

Nearly one-in-four (24%) experts expect to earn less than five thousand dollars on a typical engagement, while four in ten (38%) report earning more than ten thousand dollars but less than \$50,000. One-in-ten (9%) of experts overall expect to earn more than fifty thousand dollars on their typical case.

11. Do you sometimes negotiate your Rates & Fees?

| | |
|-----|-----|
| Yes | 43% |
| No | 57% |

Substantially fewer than half (43%) indicated that they sometimes negotiate their Rates & Fees, 57% said they did not, except when dealing with Current/Past Clients and Governmental Agencies.

12. Have you increased your general hourly-rate or per-case fee in the past year?

| | |
|-------------------------|-----|
| Yes | 25% |
| No | 66% |
| Not yet, but plan to | 10% |

Two-of-three (66%) have not increased their rates/fees in 2020, but 10% are planning to do so in 2021.