



**International Federation of Consulting Engineers**  
The Global Voice of Consulting Engineers

# The Expert Witness

FIDIC Briefing Note

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## Background

The international engineering federation FIDIC (the International Federation of Consulting Engineers) believes that its member associations and their members should strive to achieve the highest degree of quality and standards.

FIDIC has always had policy statements that it expects its members to follow to ensure high standards of service in the infrastructure industry. These standards are reflected in FIDICs contracts, policy work, events and committees.

## The Expert Witness

The concept of the expert witness evolved from the need for courts to obtain assistance when asked to decide on matters which were outside the knowledge of the court. It has evolved over a long period of time.

If, in a particular case, the expert's opinions given to a court by the parties to an action agree, the court is assisted because matters beyond its own knowledge are clarified.

If, on the other hand, the expert opinions given to a court by the parties to an action disagree, then the court is confronted with a paradox because it does not have the knowledge to make an informed choice between the opinions given to it.

This fundamental difficulty has been exacerbated by:

- a tendency for experts to view matters in the pitiless glare of hindsight rather than the time light of foresight
- a tendency for experts to espouse the cause of the party which hires them rather than to be completely objective, and
- a tendency for some experts to develop careers as 'professional' experts built on the reputation of the 'hired gun', available to serve the purpose of the advocate rather than the common good.

As a result of some internationally famous experiences in court cases it has become apparent that the concept of the expert witness can only serve courts satisfactorily if experts adhere to a code of conduct such as is suggested herein.

### Rationale

For a variety of reasons, there is serious concern that some experts called upon to assist courts are not sufficiently objective, and/or allow themselves to be manipulated by advocates. This concern is detrimental to society, to the professions from which experts are drawn and to the expert themselves.

#### FIDIC recommends:

- Member Associations develop a code of conduct for expert witnesses. FIDIC endorses the ASFE pamphlet titled "Recommended Practices for Design Professionals Engaged as Experts in the Resolution of Construction Industry Disputes" which is supported by a large number of engineering societies.



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**Endnotes**