

OSHA FINE REDUCTION HOTLINE: (804) 310-6396

Authorized
OSHA
10 & 30 TRAINER

INSPECTION REPORT

Workplace Safety & Health Manual

Training

SAFETY RESOURCE

ASSOCIATES

VIRGINIA'S STRONGEST, MOST EFFECTIVE RISK, SAFETY & HEALTH CONSULTANTS SINCE 2006



**Can I Get
Your
Expert
Witness's
Phone
Number?**

Finding the RIGHT testimony has long been a useful and necessary adjunct in the administration of an industrial accident case.

'Expert testimony is a useful and necessary adjunct in the administration of justice, and a capable expert can often throw much light upon dark places ...'

~ The Virginia Supreme Court in *Bowles Virginia Soapstone Co., 1914*

**IT NEVER HURTS TO
HAVE A COMPANY
SAFETY PLAN TO
SHOW OSHA.**

Don't Have One?
Need an Employee Safety
& Health Manual?

**SRA can
design a**

Successful expert witness effectiveness depends upon the clarity with which they are able to communicate their opinions in writing, in depositions, and at trial.

Fans of true-crime shows and real-life courtroom dramas have been familiar with the testimony of medical and criminal psychology experts since the days of Perry Mason and Matlock. Today, Court TV, the Law & Crime Network, and other media forums featuring smart legal analysis devote much time to dissecting expert witnesses' credentials.

Construction site injury litigation or industrial accident cases aren't going to see as much TV air time as celebrity justice and crazy crime get. That said, it goes without saying that the deposition of a highly credentialed witness experienced to determine "what went wrong" is invaluable in sustaining the burden of proof in complex cases involving matters of safety, employee training, and industrial hygiene. This person will be one of the most important tools in the box for clinching your case.

What Makes a Good Expert?

Falls, electrical accidents, chemical exposure, mechanical and design failure, inadequate training, and the ability to prove whether the employer exercised due diligence, are types of litigation where the right expert witness's opinion will prove invaluable.

According to Ed Boulanger of Safety Resource Associates in Richmond, Va., which maintains a team of expert witnesses for litigation support, your ideal expert for industrial or construction site accidents must be familiar with OSHA regulations, and industrial safety and hygiene. They



safety & health program for your company, assess your jobsite for

safety risks, and create employee safety manuals. We also provide safety & health training classes in English and Spanish. Contact us today!



**We're here to help.
(804) 310-6396**

Virginia's Strongest, Most Effective Workplace Risk, Safety & Health Consultants:

- Workplace Accident Expert Witnesses
- Company Safety Risk Assessment
- OSHA-Compliant Safety Plans
- Industrial Hygiene Training
- OSHA 10 & 30/EM-385 Training

will be experienced investigating and analyzing accident events including falls, machine guarding, materials-handling, mechanical or electrical equipment, Personal Protective Equipment, chemical spills, and accidents related to original manufacturer warnings.

They are also skilled at providing verbal and written reports, pre-trial consultations, deposition testimony and are comfortable - and credible - in their presentation.

Boulanger adds that the more industries in which your expert has experience, the better, including construction, manufacturing, chemicals, etc. The best candidate for your expert witness is well respected by their peers; possess excellent analytical and problem-solving skills; and has extensive knowledge of safety and health hazards; and the ability to identify potential health and safety risks.

Case Examples

In one Virginia case a subcontract painter fell from his scaffolding and was killed while working at a new-construction house. The prosecution noted that the general contractor was at the site earlier in the day and therefore had the opportunity to see if the scaffolding was safe and secure. The defense's expert countered that the scaffolding was subsequently moved by the painter himself as the job progressed, after the general contractor had left the site and the painter himself was the last person who knew how he set up his scaffolding to paint the stairwell. He had the final opportunity to ensure his own safety -- but failed to take it.

In this case, the defense's expert witness's experience and personal familiarity with OSHA standards,

OUR TEAM OF PROFESSIONALS



Dr. Leonard Vance



Chris Chapman, CIH



Michelle Thomson, PhD



Omar Lopez, CHST



Susan Wilcox, CIH, CSP



Alvin Pardo-Monell, MS, ME



Jason Brooks



Virginia's Strongest, Most Effective Workplace Risk, Safety & Health Consultants

DID YOU KNOW...

85% of the time, we can get your OSHA fines reduced or citations removed.

LOOK AT THIS:

- OSHA's maximum penalties for serious violations range from \$14,502 per violation to \$15,625 per violation.
- The maximum penalty for willful or repeated violations ranges from \$145,027 per violation to \$156,259 per violation.

SRA can negotiate with OSHA on your behalf to have fines reduced or tossed out. Call Ed Boulanger, Principal Consultant, today at (804) 310-6396. We're here to help.

accepted industry best practices, and hands-on jobsite safety made the difference. He noted that the prosecution's highly credentialed expert had not seen blueprints or inspected the accident scene, while the defense's expert testified he had personally inspected the site. This broader perspective enabled him to show that the construction company was only partially liable, which lowered their settlement.

Another example where familiarity with both OSHA safety regulations and worksite safety experience paid off was in the Virginia case which involved a jobsite injury where work was being performed by a roofing company. The city building inspector - with no authorization from his department to inspect - arrived unannounced at the jobsite and climbed up a ladder to access the roof. He was immediately told by the roofing company to get off the roof and that he shouldn't be up there. He disregarded the subcontractor's warning and proceeded with his inspection. When he lifted a tarp covering a large hole in the roof he fell a floor and a half and was seriously injured.

There was no denying there was a hazard which should have been corrected. The expert witness, however, pointed out that the inspector was specifically warned to not be on the roof. That brought into play Virginia's policy of contributory negligence, whereby the injured party's own improper actions or inactions proportionately reduced the settlement paid by the company. Again, the expert witness's broad workplace risk and safety experience, as well as extensive knowledge of regulations, played a large part in the final deposition in reducing the settlement.

Industrial Hygiene Expertise

An experienced witness with industrial hygiene credentials will be helpful in cases where injury is alleged to be from environmental factors at the workplace. A example are a pending cases involves an allegation by railroad employees that mesothelioma and cancers were caused by exposure, over time, to benzene and asbestos. The defense attorney is working to reduce railroad liability. A question from the defense expert industrial hygienist “Did the person work somewhere prior to his employment by the railroad where he could also have had exposure to these hazards?”

Certified Industrial hygienists look at the work environment to identify symptoms complained of by workers, such as rashes, coughing, burning eyes/nasal passages/throat, etc. They compare these symptoms with hazardous chemicals used in the workplace, and may sample for the chemical in the environment. They determine whether OSHA-required safety data sheets -- which state the health effects of exposure to each chemical used on the jobsite -- were included in documented training of the injured employee, and whether the chemicals were properly stored, labeled, and handled. The Industrial Hygiene expert brings an knowledge of physics, ventilation, engineering, chemical and biological sciences to support their analysis to strengthen your case.

So, how do you find the best expert?

You may locate a website that provides names of “safety consultants”. Don’t expect assistance from the website to help you identify which of their listees may be the best

fit for your needs.

You may call another attorney in your professional network for a recommendation of the best experts which they use - but if they don't practice the same type of litigation you may have to make many calls.

Some of the larger law firms may maintain a list of available experts they have used successfully in the past - if they are willing to share. You may have better success by searching the web or a phone directory in your region for "Safety Consultants" or "Safety and Health Training" firms, which have access to experts to advise about ways to stay OSHA-compliant as well as how to keep their employees safe on the job. You may also find expert witnesses in your region advertising in the legal publications you read, or in the state bar's directory under "litigation support."

Okay, you have found several possible candidates for the case. Now let's interview them to determine which expert is best for you.

A short phone interview with each potential expert is likely to identify strengths you could use to support your case:

- Are they familiar with all ANSI, OSHA and state safety and health standards and accepted industry best practices? The Commonwealth of Virginia hosts the complete gamut of industries from, construction, manufacturing, shipping, transportation, communications, energy, utilities, agriculture and technology - all of which must comply with OSHA standards and more.
- What relevant experience do they have in the technical

expertise required specific to jobsite safety and/or industrial hygiene?

- What is their experience providing safety and health depositions in court? Do they have broad experience in multiple industries that they can interrelate and apply to your advantage?
- Evaluate their credentials, including certifications and experience in jobsite safety and industrial hygiene. Strong expert witnesses have credentials so impressive and overpowering that their view of the case and statement of position may be strong enough to compel a settlement out of court.
- Do they bring unique or extraordinary skills to the table, such as creating and providing videos or animations to “recreate the scene” or clearly communicate their assessment of what happened?
- Are they responsive to your requests to evaluate competing depositions as well as develop one to represent your position? Are they familiar with the rules of deposition?, Do they possess the ability to see both sides of the case, as well or even better than you yourself see it?
- Do they possess the ability to present their ideas clearly and concisely in their technical report?
- Will they present themselves as articulate, capable, credible and compelling enough in person to convince the judge or jury? Can they think fast on their feet when presented with unexpected questions?
- And, of course: Are they available for the timetable your case requires?

Don't overlook experienced consultants who are new expert witnesses.

According to Joseph A. (Jay) Ford's Tips for Preparing an Inexperienced—Yet Qualified—Expert Witness in Commercial and Business Litigation: “Practical considerations like expense, geography, and time may require hiring an expert that is inexperienced as a witness, but highly qualified in his or her field of expertise.

“In fact, there may be benefits to retaining an expert with little or no testifying experience because they will not have prior opinions or testimony with which to be impeached, or be described as biased toward any particular view or position. Such an expert will, however, require careful preparation.”

Rule 2:702 of the Virginia Supreme Court states: “A witness qualified as an expert by knowledge, skill, experience, training, or education may testify thereto in the form of an opinion or otherwise.

“A witness does not necessarily need any formal education or possess a degree to be qualified as an expert if the presiding judge deems the witness has sufficient knowledge, experience, or training on such a subject.”



10 & 30 Trainer

Want to Ensure That Your Employees are Trained in OSHA-Compliant Safety?
Schedule a Safety Training Class for Your Team
Call (804) 310-6396 today.

REDUCE JOBSITE ACCIDENTS and their high cost.

Safety Resource Associates can come to your jobsite and assess your risk for job hazards:

Company Safety Risk Assessment & Audits

- Discover and Reduce Company Liabilities
- Gap & Opportunity Analysis Service
- Recordkeeping & Reporting
- Hazard Assessment Service
- Mock-OSHA Audits
- Site & Facility Audits

We're here to help. Don't wait - call today!
Ed Boulanger, Principal Consultant
(804) 310-6396

Safety Resource Associates, LLC
Virginia's strongest, most effective risk, safety & health consultant
VaSafetyConsultants.com



Questions? We're here to help.
Don't wait - Call us today at (804) 310-6396

You don't have to face OSHA alone...

Download your **FREE** OSHA Inspection Toolkit [here](#).

Safety Resource Associates, LLC
Virginia's strongest, most effective risk, safety & health consultant
VaSafetyConsultants.com

Virginia's Strongest, Most Effective • EXPERT WITNESSES •

Highly-Credentialed, Experienced Consultants for Litigation Support

Focused on Safety, Industrial Hygiene, Construction, Mechanical Eng, & Electrical

CALL Ed Boulanger, Principal Consultant: (804) 310-6396

Safety Resource Associates LLC



VaSafetyConsultants.com

Safety Resource Associates, LLC | 3108 Lake Shire Ct., Richmond, VA 23235 (804) 310-6396

[Unsubscribe edbesafe@comcast.net](mailto:edbesafe@comcast.net)

[Update Profile](#) | [Constant Contact Data
Notice](#)

Sent by edbesafe@comcast.net