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Minimizing Costs and Maximizing Outcomes in Product Liability Litigation

Written by Quality Assurance Expert Witness

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Product liability cases are often among the most expensive and time consuming to litigate. They usually involve a cadre of very costly experts spending months dissecting incomplete forensic evidence that may lead only to ambiguous conclusions. Even if the evidence is compelling, opposing counsel will find other experts to dispute their experts and the battle of the experts will continue as long as they are able to burn hours in research, testing and travel. In the meantime, the plaintiff and defendant are mired in discovery requests, objections to the requests, submission of incomplete discovery and, eventually, orders to compel. Weeks turn into months and scheduling orders turn into meaningless deadlines that are continually revised.

As an expert witness, I have never met an attorney who enjoyed this protracted battle of paperwork and procedures, nor have I met one who found it cost effective to pay for years of research and overhead before arriving at a settlement. Regardless of who is paying, plaintiffs, attorneys, financiers, insurance carriers or defendants can all benefit if the time to settlement can be shortened. I've also never met a litigator who reveled in trying to understand the ramblings of an expert witness who speaks in tongues and techno-babble. The more complex the case, the more time attorneys and their staffs have to spend translating technical forensic findings into information that a jury can understand. Moreover, the teams of babbling experts can now find themselves in Daubert¹ hearings, making cases even more complex and more costly. From the unlikely origin of a spin-off of the space program we've developed a breakthrough tool to help attorneys, plaintiffs, defendants, insurance carriers and the court systems expedite products liability litigation while arriving at more compelling

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settlement solutions. We have a set of tools that can help experts and attorneys become more valuable to their clients.

While other experts are pawing over charred remains under an electron microscope, our practitioners are performing an analysis of the company that manufactured the subject product. Mostly from specific documents obtained through discovery, we can do an audit of the business, manufacturing and quality processes resulting in compelling evidence that the organization did or did not exercise a reasonable standard of care that should have prevented the alleged disaster or accident. By examining the infrastructure of the organization accused of product defect and/or negligence, and gathering evidence that determines if they were or were not careless in their management, policies, standards, practices, training, inspection or testing processes, a compelling, structured narrative is generated that maps an objective series of events leading to the alleged event and its consequences. Having published ten books on quality and manufacturing management and having audited over 500 companies, our broad experience is also critical to compare the organization's actions to conventions for quality in their industry and address the evidence of how well they compare to accepted industry standards and norms of behavior.

As expert witnesses, we have been involved in products liability suits involving electrical outlets, titanium metal, stereo boom-boxes, gate valves, motorcycles, box fans, tractor-trailer trucks, contract disputes, golf carts and computer printers. The product is almost irrelevant to the outcome of our research. We typically provide undeniable evidence that the organization either was careless in its practices, or, that their quality processes could not reasonably have allowed the alleged defect. While the forensic issues may be open to dispute, our findings are seldom refutable because we use the company's own documents to make our case. If a defendant does not produce quality and manufacturing documents that prove their diligence and stewardship, the result is just as compelling that they have not met consumer care obligations typical to their industry. Moreover, they may have also violated statutory and regulatory requirements for product safety.

While most companies will not suffer critical financial or image damage because of a one-off product failure and jury award, a defendant who sees the evidence in our reports describing a company that is remiss in its standards of care is often compelled to settle quickly before this information becomes public record. We have had cases settle the day after our court testimony, the day after deposition and even soon after our report reached the corporate offices of the defendant. We have had attorneys tell us

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our input has been the difference in seeking punitive damages because the organization can be proven to be grossly negligent in their practices, not just liable in a single product failure.

These tools have been trademarked and are unlike most any others available to attorneys, insurance companies and corporate councils. Specifically, they:

Help litigators develop a more compelling and irrefutable case
Drive cases to more rapid conclusions
Reduce costs by reducing expenses and time
Compel guilty defendants to pay more lucrative settlements
Provide tools for corporations to do a self-analysis before they wind up in liability litigation.

Expert 1813 was one of the first Quality Control Engineers (1969). He spent 14 years at NASA's Mission Control Center in Houston and was present in Mission Control to hear firsthand the words "Houston, we have a problem" from Apollo 13. Expert 1813 has written ten books on quality and organizational excellence. He consults and trains in minimizing liability through proactive business and quality management. He has been practicing as an expert witness for the last seven years.

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