



The Facilitate Factor

**Facilitate
Expert**

Solutions Limited

facilitateexpertsolutions.co.uk
07971 012 645

14th Floor
The Plaza
100 Old Hall Street
Liverpool
L3 9QJ



Newsletter
November 2021

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An update from Claire

Hi Everyone,

Welcome to my penultimate newsletter of the year and what a year its been!

In December's issue we have the first in a 2 part series from Consultant Cardiologist Professor Saul Myerson who discusses the challenging times an expert witness can face.

I also thought it was time I started introducing you to our team. Emma Wall, one of our dedicated PA's gives us a snapshot of her daily life juggling kids, the home and ensuring the best possible standards are met for all of our experts.

Enjoy!

Claire Labio,
Director

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Challenging times as an expert witness

Professor Saul Myerson, Consultant Cardiologist

Being an expert witness can be interesting and intellectually rewarding, but it can also be extremely challenging at times. When deciding to take on work as an expert witness, most of us probably considered that we knew our field of work well enough to be good at providing helpful reports / oral evidence for the Court. However, little did we know that this would also involve skills in diplomacy, negotiation and conflict management. An expert faced with a difficult situation is unlikely to garner much sympathy from others, given the generally good rates of pay for the work, but the pay does not provide a solution to the issues.

The areas that I have found are likely to result in difficult paths to navigate are 1) keeping yourself on the 'straight and narrow' despite temptations to deviate; 2) dealing with other expert witnesses in your field who have a seemingly extreme (and potentially biased) viewpoint - this interaction most often occurs during the joint expert discussion; and 3) managing solicitors who seem to want your report to say something different. I offer my own observations on what to consider in these situations, and how I approach the issues, although I do not pretend that I get it right every time!

Maintaining your own impartiality

As experts, we are all aware (or should be!) of our requirements according to the civil/criminal procedure rules. We are meant to provide impartial, objective opinions on the evidence available, in order to assist the Court in reaching its conclusion. However, in reality we are instructed by solicitors who act for one side in a case, and this can sometimes influence our approach. In addition, unconscious biases can creep into our opinions. It can be easy for any of us to stray into a position of supporting a case, particularly when you have only seen one side's witness statements/other evidence, or where this confirms your previously held views about a particular situation (confirmation bias). Further, it can sometimes be difficult to resist the temptation to be "one of the (legal) team", helping to advance the case, especially when highly intelligent and charismatic barristers place carefully worded questions in your mind, designed to lead to answers that are advantageous to their case. The legal equivalent perhaps of a patient asking a doctor the leading question: "the scan is normal, isn't it doctor?" This feeling of 'goodwill' can be exacerbated by the good rapport between expert and solicitor/barrister, particularly if you have worked with them previously. So, I understand how experts can find themselves in a situation that is less objective than required. For my part, I try and remind myself that it is analogous to delivering the necessary and truthful information about a patient's diagnosis/treatment, however unwanted the information might be. Being open and honest is always going to result in a better situation further down the line than telling a solicitor what they want to hear. This also applies when modifying your opinion, having been challenged by another expert witness or solicitor. If I find myself in this situation where my opinion needs 'updating' (i.e. altering), it is better to admit to this, rather than cling on to the original opinion in order to 'save face'. In my medical practice, I would not insist that my original diagnosis for a patient was correct, in the face of subsequent evidence to the contrary, merely because I wanted to appear to be the superb diagnostician, when I know that ultimately the patient would suffer as a result. It is a similar situation for a legal case. Perhaps



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a good way of keeping your opinion honest and objective is to ask yourself “Would I feel comfortable giving this opinion in Court, in front of a judge and 50 of my professional peers?” And let’s not forget that in recent years, wasted costs orders have been imposed on experts where their evidence has been particularly poor or their expertise is not sufficient for the case.

Look out for our next newsletter for the conclusion of Saul’s article.



A Day in the Life of one of our PA's

Emma Wall

So Emma, how does your day begin?

Alarm at 6.15am, I creep down the stairs carefully avoiding the creaking stair (we all have one!) praying I don't wake the children so I get chance to do a quick HIT or kettlebells workout. Dive in the shower and then that peaceful calm start has gone in a flash it's all go and I'm on repeat 'hurry up eating your breakfast', 'brush your teeth', 'iPad off', 'coat and shoes on' it seems relentless. Finally waved them off in to school and nursery. Phew!

Are you office based?

No, I have the absolute luxury of working from home on a flexible basis. I'm relieved of the stressful commute to Liverpool frantically trying to get there for 9am. Fearful of being late and upsetting colleagues.

Whether I'm in the office or not, I'm still contactable by phone or email or as the last year has dictated to us available via Teams or Zoom. I still schedule appointments to be seen in person as face to face communication is very important.

That anxiety has disappeared and I now work times of the day that suit me. I'm often online early morning and in the evening but quite often offline for an hour in the afternoon. It's a lifestyle pattern that works for me whilst not compromising on the high level of service and response we like to give our expert clients.

What is your role?

In essence my day commences with a review of the emails and there's usually a fair few to wade through with a variety of actions and replies to be drawn. Moving on to calls with fellow professionals and patients, that will quite often lead in to more time consuming matters, problems arise and need solving and I thrive in remedying these. There are documents to be scheduled for return, appointments to be processed to name but a few.

What do you hope to achieve?

My goal is to make life as easy as possible for our Experts so after their day in the Hospital, when they sit down at their desk that evening they can focus and be productive on essential and pressing matters highlighted by myself.



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Claire Labio
Director

claire@facilitateexpertsolutions.co.uk

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Do you need help with your monthly VAT returns, recording of invoices and chasing of outstanding fees? Are you coming under pressure from your workplace to stop using the Company/Trust supplied Secretary for your Medico-Legal work? Do you require typing support?

If your answer to any of the above questions is YES then we can help you!



We also run a **Barrister Practice Management** business. This links together nicely with Facilitate as we use some of our experts for **Seminars, Mock Inquests, Trials** etc. If you would like to be considered please contact us > claire.labio@completecounsel.co.uk

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