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> Who is an Expert Witness and How to Use Expert Evidence in Singapore

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# Who is an Expert Witness and How to Use Expert Evidence in Singapore

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## Who is an Expert Witness?

**An expert witness is a person with scientific, technical or other specialised knowledge based on training, study or experience.**

Expert witnesses may be used in Singapore courts to assist the court in reaching a decision for certain cases.

These are usually cases involving some technical issues that are not subject to common knowledge, or more accurately, only in cases where the court is likely to derive assistance from an opinion upon a point of scientific, technical or other specialised knowledge (i.e. expert evidence).

## What is the difference between an expert witness and a lay witness?

Unlike expert witnesses, lay witnesses simply give first-hand evidence of things they saw and heard. On the other hand, expert witnesses would not have witnessed any relevant events (to the case) first-hand.

Rather, expert witnesses are there to help the court to examine and interpret the facts of the case correctly with the benefit of their specialised knowledge, where the facts involve some element of that specialised field.

## Types of Expert Witnesses

The types of expert witnesses are extremely varied. Depending upon the nature and needs of the case, the following types of experts may be called to court:

- Medical experts (E.g. in cases of [personal injury](https://singaporelegaladvice.com/law-articles/claiming-personal-injury/) (<https://singaporelegaladvice.com/law-articles/claiming-personal-injury/>) or [medical negligence claims](https://singaporelegaladvice.com/law-articles/medical-negligence-and-malpractice-in-singapore/) (<https://singaporelegaladvice.com/law-articles/medical-negligence-and-malpractice-in-singapore/>))
- Forensic scene reconstruction experts (E.g. for crime cases)
- Handwriting experts (E.g. cases relating to forgery)
- Computer experts (E.g. cases relating to [theft of confidential data](https://singaporelegaladvice.com/theft-confidential-info-ex-employee-steps-fix-damage/) (<https://singaporelegaladvice.com/theft-confidential-info-ex-employee-steps-fix-damage/>))

## Role and Duties of an Expert Witness

An expert witness' duty is to assist the court and this duty **overrides his duty to the person instructing or paying him.**

Meaning, where a party to the case has appointed him/her to act as an expert witness, it is the duty of the expert to be **independent and unbiased** when forming his opinion.

When an expert witness prepares a report, he has to include an acknowledgement of his duty to the court at the end of his report.

Some other duties of an expert witness include the duty to:

- Consider all relevant facts and materials to the case, including those that may diminish his/her opinion.
- Provide an opinion on matters that lie only within his/her expertise.

- State the literature or materials he/she relied on in forming his/her opinion, or in the case of opinions derived from experiments, the results, conclusion and methodology used.

## Appointment of Expert Witnesses

### Party-appointed experts

The most common way in which experts are appointed in Singapore's adversarial court system is for each party to appoint their own witness to give their own evidence in support of their own case and to then test the opponent's expert's evidence under cross-examination.

### How to choose an expert witness

In choosing an expert, you should look for someone who has **qualifications and experience** that are relevant to the technical issues in the case. Previous experience of acting as an expert witness may be an advantage.

You should **conduct a complete review** of everything the expert has ever published to make sure there is nothing in his/her professional background or bibliography that may impeach him/her credibility or that may contradict technical points that you need to support your case theory (i.e. your position on what happened in the case).

If he/she has published something in the past that supports aspects of your case theory, this is ideal.

### Can the courts disallow my use of expert evidence?

The courts have a wide discretion to disallow expert evidence. This is usually exercised in cases in which the evidence is capable of being understood by an ordinary person without any specialised knowledge.

### Court-appointed experts

Another less common method of appointment is for the court to appoint a **single joint expert** to give expert evidence on behalf of both parties to the case. This procedure is used, for example, under a simplified process that applies to Magistrate's Court and certain District Court cases and its objective is to reduce parties' costs (<https://singaporelegaladvice.com/law-articles/post-litigation-costs>).

In addition, the court may, at any time, on its own motion or on an application by one of the parties, appoint an **independent court expert** to give an opinion on some technical issue.

The parties may then, if they wish, appoint their own experts as well to give evidence on the court expert's report.

## The Procedure for Providing Expert Evidence in Court

There are a number of different procedures for the production of expert evidence depending on which court your case will be heard in.

The traditional method is for each expert to **prepare their own reports** which are attached to an affidavit (<https://singaporelegaladvice.com/law-articles/affidavits-singapore>), signed by them and submitted to court.

These reports are required to contain certain specific information including the expert's qualifications, information relied upon in the production of the report, any experiments carried out, etc.

Then, at trial, each expert is **cross-examined on the contents of their respective reports** by the opposing party and are to give their evidence separately. As a result, the expert witnesses will generally not be present in court at the same time.

However, in certain District and Magistrate's Court cases, the experts can meet in advance to narrow the issues in dispute and subsequently **prepare a joint expert report** together setting out the issues on which they agree and disagree.

This procedure also allows for the experts to give evidence at trial concurrently in each other's presence so that their respective evidence can be tested more rigorously. This procedure is colloquially referred to as "**hot-tubbing**."

Regardless of the applicable procedure, if an expert submits a report in court, that expert will typically need to make himself/herself available to appear in court in order to be cross-examined on it. This is unless, the party or parties with the right to cross-examine the expert waives that right.

### **Which procedure for producing expert evidence is right for you?**

If your case features technical aspects, you should have a conversation with your lawyer early on about what kind of experts you will need and start looking for them early on in your case. Getting a good expert early will help your lawyer better prepare your case in a way that an expert can more easily support later.

If cost is a consideration, speak to your lawyer at the very beginning of the case about which court and which procedure for producing expert evidence would be the most appropriate for you in terms of cost savings, without compromising the strength of your case.

If you are the plaintiff for the matter (i.e. the person bringing legal action against the other party), you may have more flexibility in this regard than a defendant.

However, some procedures for producing expert evidence in court require the consent of all parties. In these circumstances, and if the parties are pragmatic and cost-conscious, significant cost savings can be made where counsel for both sides are prepared to negotiate sensibly.

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