

3 STRATEGIC ADVANTAGES OF INVOLVING A FORENSIC EXPERT IN FIRE CASES

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In the classic military strategy text “The Art of War”, Sun Tzu talked about winning and losing a fight before it is actually fought. His central argument was that the combatant with greatest knowledge of their opponent and the terrain would most probably win the battle.

Tzu was referring to the battlefield, but he could just as easily be writing about a courtroom. And for lawyers in fire-related cases, forensic investigators and engineers are the terrain experts.

Whether an incident occurred last night or several years ago, forensic investigators and engineers examine evidence they either gather directly or that has been gathered by others. They then apply the scientific method with the sole objective of discovering the truth by determining the facts while upholding the highest degree of integrity. The expert puts the pieces of the puzzle together to objectively and comprehensively provide an account of what really happened. >>>

Allow me to share three key strategic advantages to hiring a forensic expert in your cases:

1) YOU WILL GET AN UNBIASED REVIEW OF THE EVIDENCE

The expert can tell you about the building in question and whether it complied with the building/fire codes in effect at the time of construction. They can also tell you about the fire itself: where it started, how it spread and to what degree it could have been prevented.

To do this properly, the number of assumptions he or she makes is minimized. There will be no “if x happened, it probably led to y, which most likely caused z” situations that any competent lawyer could have stricken from the record. In order for an expert to conclusively determine the cause of an incident they must eliminate the “unknowns” with technical facts. If an expert’s opinion is based on several assumptions, they must dig deeper to replace those variables with facts through further investigation or research. In the event no further information can be obtained due to the unavailability of evidence, an unbiased expert should report that the cause of the incident cannot be conclusively determined.

To ensure you can trust the outcome outlined by the expert you hire, it is very important the expert selected is qualified specifically for your case’s technical needs – beware of a “jack of all trades” forensic expert.

2) YOU WILL KNOW WHEN TO RETREAT

Sometimes the facts are just not on your client’s side, no matter how much you want them to be. The sooner you know, the sooner you can start advising your client of their options, and game-plan a settlement strategy. A forensic investigation puts your hand on the pulse of your case, letting you know if it is in your best interest to keep fighting or if it’s time to pull the plug.

3) YOU WILL HAVE HELP ASSISTING THE COURT

Providing clients with a clear grasp of a case’s facts is the first part of a forensic expert’s job. The second part is helping judges and juries grasp them. The easier it is for them to understand how the fire started and the mechanisms of how it spread, the more likely they will rule correctly on every facet of your case.

Investigators and engineers have a wealth of experience presenting to judges, juries, arbitrators and committees. They know what verbal markers laypeople need to fully appreciate the nuances of an incident. At the same time, they can explain events and consequences to more specialized audiences.

Most importantly, they know how to maintain their credibility by delivering the facts without a hint of bias and without appearing to advocate for their clients. They are there to assist the court; and if/when there is evidence that does not assist your client’s case, they may be able to determine if this evidence is unrelated to the cause of the fire.

When you weigh the cost of a forensic investigation against the potential cost of an uninformed ruling – or worse, a ruling in a case you should have settled – it is a smart investment.

For lawyers who possibly disagree, I would refer them to *The Art of War*. It is a fantastic read, especially for people in adversarial roles. Alternatively, I would remind them of the first lesson in the Boy Scouts’ handbook: Be Prepared.



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