
Ethics for Experts

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Ethics is defined as a set of moral principles or values. It distinguishes between what is good and bad; determines moral duty and obligations; and establishes principles of conduct for an individual and a professional group.

Experts will have credentials such as professional licensing or certification and probably will have membership in one or more organizations that have adopted a canon of ethics. A person usually enters into a multiple ethical acceptance, morally as an individual, in professional practice and in organizational membership.

Ethics is derived from the premise that there is a responsibility to protect the safety, health and welfare of the public. Organizations composed of professional members follow that same premise with established canons of ethics to govern their membership.

Professional engineering licensing by individual states is based on the same premise that human welfare is the primary purpose of the profession. As a professional expert, you have a moral duty and a legal obligation to the public, the profession and the organization to practice ethically.

More than 50 years ago, the National Society of Professional Engineers adopted the Engineers' Creed, briefly summarizing the doctrine of professional responsibility. It is still current. It continues to outline professional ethics and was the foundation for the adopted canon of ethics. The Engineers' Creed is repeated below along with some discussion for your consideration when acting as a professional expert witness.

ENGINEERS' CREED

As a Professional Engineer, I dedicate my professional knowledge and skill to the advancement and betterment of human welfare.

*I pledge:
To give the utmost of performance;*

As an expert, you are expected to be objective, expressing opinions that are independently yours and founded on adequate knowledge and honest convictions. Just an opinion is not sufficient. The opinions must have technical backup, a factual basis and represent the state of the art for the profession. You will be judged on your performance as an expert, establishing your credibility and integrity with the court.

It is not necessary to be an advocate. Attorneys are required to zealously represent the client and be a strong advocate for their claims. Your job as an expert is to zealously guard the truth. Attorneys will interpret the facts that are favorable to their client. Your assignment is to explain the facts based on the information and knowledge available without entering into the advocacy role. Be wary of any influence to limit or modify your expert opinion, ask for a written request if an attorney pushes you into unethical areas and decline to work further on the case, if appropriate.

To participate in none but honest enterprise;

The one quality that will protect the credibility and longevity of an expert is to always tell the truth. You are sworn in court to "Tell the truth, the whole truth and nothing but the truth." This truth also applies to experience, qualifications, collecting data, analyzing information, preparing reports and providing conclusions and opinions. Nothing will destroy an expert and his or her professional credibility more quickly than potential perjury.

This is the age of electronic documents and search software. The retrieval of obscure documents is easy. A thorough

search will be made of your background and any relevant presentations or previous testimony will be found. You can rest assured that you will be reminded either in deposition or court of previous statements you may have made that are contradictory to current opinions.

To live and work according to the laws of man and the highest standards of professional conduct;

You are licensed to practice in specific fields and, through education and experience, are qualified to provide expertise within established areas. You may undertake only those assignments for which you are professionally qualified. It is recognized that professional engineering licensing laws provide a wide range of engineering practice with the courts providing lenient qualification of an expert. The fact that you can read and understand a document does not make you an expert on that material.

Active involvement in a specific area of expertise provides the "firsthand" knowledge to address the issues and rebut spurious claims. That expertise must be maintained by participation in training, seminars, publications and development of the state-of-the-art practice in that field of endeavor. While you may withstand the qualifications as an expert by the court, your credibility will be judged by your qualifications and testimony that may not support being a knowledgeable expert in the field.

To place service before profit, the honor and standing of the profession before personal advantage, and the public welfare above all other considerations.

Experts should never work under a contingency arrangement where they receive compensation based on trial re-

sults. Experts provide their expertise at an agreed price under a contractual arrangement to be paid regardless of the trial outcome: win, lose, or draw. The practice of engineering and the litigation thereof usually will involve professional engineers who have different opinions and oppose each other in a trial.

Although his or her testimony may conflict, it is not a basis to injure maliciously the professional reputation, prospects, or practice of another professional. There is no need to cast disparate remarks about another professional because it detracts from the profession itself. At the same time, you have the responsibility to yourself, the profession and the organization to report on an individual who is practicing unethically.

In humility and with need for Divine Guidance, I make this pledge.

While there is a lot of national publicity concerning the ethics of chief executive officers for large companies, we are not in the position to either address or correct these immoral acts. Our goal is more fundamental. It is to encourage honor in the profession, individual dignity and professional integrity as an expert. You can usually judge ethical behavior by asking yourself the following questions: Does it sound right? Does it feel right? If the answer is no, it probably is not right or ethical. ■

ROBERT W. CROMMELIN, P.E., PTOE and **JAMES L. PLINE, P.E., PTOE** share similar expertise. Both are members of the Expert Witness Council and provide extensive experience as experts in the transportation field. They are both honorary members of ITE.



Institute of Transportation Engineers

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