

# AIR QUALITY EXPERTISE IN THE COURTROOM

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AMERICAN METEOROLOGICAL SOCIETY SHORT COURSE ON FORENSIC METEOROLOGY

JANUARY 7, 2018

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# THE SEVEN C'S

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- Cases: In what settings are you a “forensic meteorologist”?
- Credentials: What do lawyers (and judges) look for in an “expert”?
- Consistency: Have you offered a different opinion before?
- Consulting (vs. Testifying): Are you forming opinions for counsel or the court?
- Collaboration: Do you know your place on the team?
- Care: Are you managing your work like someone’s always looking?
- Context: Are you explaining the significance of your opinions?

## CASES: IN WHAT SETTINGS ARE YOU A “FORENSIC METEOROLOGIST”?

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- Permit disputes: Will the proposed project cause unacceptable ambient air quality?
- Enforcement: Did noncompliance have any ambient consequence?
- Tort cases: What exposures resulted from a release?

## CREDENTIALS: WHAT DO LAWYERS (AND JUDGES) LOOK FOR IN AN “EXPERT”?

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- Experience in the task at hand: No jacks of all trades.
- Lack of testimonial experience can be a plus
- Advertise “expertise”?
- Avoid overstatement

# CONSISTENCY: HAVE YOU OFFERED A DIFFERENT OPINION BEFORE?

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- Review your prior work
- Pick a “side”?
  - Lower risk of inconsistency
  - But greater risk of perceived bias

# CONSULTING (VS. TESTIFYING): ARE YOU FORMING OPINIONS FOR COUNSEL OR THE COURT?

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- Consultant: Advice to client
- Consulting expert: Advice to lawyer
- Testifying expert: Advice to court

# COLLABORATION: DO YOU KNOW YOUR PLACE ON THE TEAM?

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- Permit consultant  $\neq$  BACT expert, dispersion modeler, toxicologist. Or lawyer.
- Are you getting the information you need from others?
- Are you getting “peer-reviewed”?

# CARE: ARE YOU WORKING LIKE SOMEONE'S WATCHING?

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- Discoverability of communications with counsel: FRCP 26(b)(4)(B) & (C)
  - Fee arrangements
  - Information and assumptions *provided to form opinion*
  - But not draft reports
- List everything you read in the course of an engagement (possibly starting with the application)
- **Do not communicate in writing before you communicate by telephone.**
- Are your opinions well-founded?



# CONTEXT: ARE YOU EXPLAINING THE SIGNIFICANCE OF YOUR OPINIONS?

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- Dispersion modeling is not an exact science
- It is inherently conservative
- Model results  $\neq$  actual outcomes
- Most regulatory markers of “acceptable” air quality are not bright lines
- Take care in graphics