



Death of the Hired Gun: Independent Experts in Environmental Litigation

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Overview

- **Environmental Assessments to Litigation**
- **Proper Role of Expert**
- **Consulting vs Testifying Experts**
- **Admissibility**
- **Cases**

Cases Generally

- ***Bailey v Barbour***
 - 2014 ONSC 3698
- ***Carmen Alfano Family Trust v Piersanti***
 - 2012 ONCA 612
- ***Moore v Getahun***
 - 2015 ONCA 55
- ***R v Soni***
 - 2016 ABCA 231
 - See contra *R v McManus*, 2017 ONCA 188

Environmental Cases

- ***Shawnigan Residents Association v BC Director of Environmental Management Act***
 - 2017 BCSC 107
- ***Gendron v Thomspson Fuels***
 - 2017 ONSC 4009
- ***Wiggins v Ontario (Environment and Climate Change)***
 - 13 CELR (4th) 235 (Ont. Env. App. Bd.)
- ***Brookfield Residential (Alberta) LP v Imperial Oil Ltd.***
 - 2017 ABQB 218
- ***Chisholm and British Columbia (Assistant Water Manager), Re***
 - 2018 CarswellBC 1924 (BC Env. App. Bd.)

Conclusion

- **Each case is evaluated contextually on a case-by-case basis**
- **Affirm your independence in your expert retainer and in your expert reports**
 - Identify your present and past relationship (if any) with any of the parties, their legal advisors and members of the judiciary or decision-making body
 - A statement acknowledging your duty and role, as an expert, and the concept of impartiality

Thank you



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