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***Hiring to Firing* Podcast — Perms, Pay Equity, and the Power of Experts****Hosts: Tracey Diamond and Emily Schifter****Guest: Paul White****Recorded: 3/18/26****Aired: 4/28/26****Tracey Diamond (00:00):**

Welcome to *Hiring to Firing*. I'm Tracey Diamond, and I'm here with my partner, Emily Schifter. And we're talking today with Paul White from Resolution Economics about expert witnesses. Which made me wonder, Emily, do you have any stories about expert witnesses from your past life as a lawyer or your current life as a lawyer?

**Emily Schifter (00:16):**

I do. Well, maybe more a story of what not to do as an expert. When I was a summer associate, I sat in on a patent case deposition, and it was an expert deposition. At one point, I turned around to look at the rest of the table and it was, of course, going well over my head, as I'm no scientist and I was certainly not a very experienced lawyer. And three of the lawyers had fallen fast asleep.

**Tracey Diamond (00:36):**

Oh, no. No. So rule number one, expert, you better be engaging and keep your lawyers awake. That's right. Well, listen in as Paul White gives us some really important tips and tricks on the use of expert witnesses.

[music]

**Tracey Diamond (00:59):**

Welcome to *Hiring to Firing*, the podcast. I'm Tracey Diamond, a labor and employment attorney at Troutman Pepper Locke, and I'm here with my partner and co-host, Emily Schifter. Together we handle all employment issues from hiring to firing.

**Emily Schifter (01:12):**

Today we are joined by Paul White, a partner at Resolution Economics, an economics, statistics, forensic accounting, and economic damages consulting firm, to discuss expert witnesses in employment matters using some of our favorite experts from the legal movies 'My Cousin Vinny,' 'Legally Blonde,' and the movie 'The Big Short.' So welcome, Paul, and thanks so much for joining us. Can you start by telling us a little bit more about your background and Resolution Economics?

**Paul White (01:37):**

Sure. It's a pleasure to be here. I am a partner of the Washington, DC office of Resolution Economics. I have a Ph.D. In labor economics, and I have been doing this work for over 30 years, and I've had the pleasure of working with Troutman Pepper attorneys for almost the same number of years. Our firm specializes in the statistical analysis of employment data, meaning we look for trends in their data to determine whether their employment decisions, like hiring, compensation, promotions, and terminations may be favoring one employee group over another. We also do wage and hour matters where the goal is to determine whether people are being paid for all of their time worked, among other things.

**Tracey Diamond (02:15):**

So we really enjoy working with Resolution Economics and with you in particular, Paul, because you have an uncanny ability to make really complex data and numbers that make my eyes glaze over seem like an easy thing to understand or a relatively easy thing to understand. So thank you for that. You might think expert witnesses only come into play when litigation involves complicated technology or inventions, but Paul, can you give us a sense of when experts might be useful on employment law matters?

**Paul White (02:45):**

Yeah, obviously expert witnesses are in litigation, both in a testifying role and in a consulting role. And in employment, that's on things like wage and hour, class action discrimination cases involving disparate impact or disparate treatment pattern and practice, damages analysis, and also all sorts of employment and restrictive covenant cases. But we also provide guidance and counseling and support and proactive advice outside litigation on some of the same topics like wage and hour, pay equity audits are very popular these days, OFCCP audits, EEOC investigations, and as you can imagine, increasingly AI bias audits.

**Emily Schifter (03:21):**

Yeah, really covering a lot of the areas that we cover. So so grateful there are people like you with your expertise. So before we dive into the specifics on some of those different areas, we thought it might be helpful to start with a higher level concept of what makes an expert an expert. So that brings us to our first clip from one of my favorite legal movies, 'My Cousin Vinny.' For those who haven't seen the movie, it stars Joe Pesci as a newly admitted New York lawyer who finds himself in small-town Alabama trying his very first case, defending his teenage cousin Bill Gambini and his friend when they are wrongly accused of murder. But his long-suffering fiancée, Mona Lisa Vito, played by Marisa Tomei, steals the show when she helps him win the case through her testimony about the tire tracks found at the scene of the crime. But not before some work by both of them in convincing the judge and prosecuting attorney that she is in fact qualified to testify. So let's take a listen.

[BEGIN CLIP]

**Prosecutor (04:18):**

Can you tell me what would the correct ignition timing be on a 1955 Bel Air Chevrolet with a 327 cubic inch engine and a four-barrel carburetor?

**Mona Lisa (04:31):**

It's a bullshit question.

**Prosecutor (04:33):**

Does that mean that you can't answer it?

**Mona Lisa (04:36):**

It's a bullshit question. It's impossible to answer.

**Prosecutor (04:38):**

Impossible because you don't know the answer.

**Mona Lisa (04:40):**

Nobody could answer that question.

**Prosecutor (04:42):**

Your Honor, I move to disqualify Ms. Vito as an expert witness.

**Judge (04:47):**

Can you answer the question?

**Mona Lisa (04:49):**

No. It is a trick question.

**Judge (04:51):**

Why is it a trick question?

**Vinny (04:54):**

Watch this.

**Mona Lisa (04:55):**

'Cause Chevy didn't make a 327 in '55. The 327 didn't come out till '62. And it wasn't offered in the Bel Air with a four-barrel carb till '64. However, in 1964, the correct ignition timing would be four degrees before top dead center.

**Prosecutor (05:12):**

Well, she's acceptable, Your Honor.

[END CLIP]

**Tracey Diamond (05:21):**

So I have to say, 'My Cousin Vinny' is also one of my favorites. And I can't help but think of, "My biological clock is ticking, ticking, ticking."

**Emily Schifter (05:29):**

So many great lines.

**Tracey Diamond (05:31):**

So many great lines. And many great lines from our next clip, which is another classic legal movie, 'Legally Blonde'. Here, Reese Witherspoon's character, Elle Woods, impeaches the testimony of Chutney Windham. She proves that Chutney could not have showered immediately after getting a perm, as she claimed, because her curls would have been ruined, proving Chutney lied about her whereabouts during the murder of her father and clearing Elle's client, Brooke Windham, of any guilt. Of course, one of my favorite lines in that movie is the bend and snap, but let's take a listen to this clip.

**Elle (06:02):**

Had you ever gotten a perm before?

**Chutney (06:05):**

Yes.

**Elle (06:06):**

How many would you say?

**Chutney (06:08):**

Two a year since I was 12. You do the math.

**Elle (06:14):**

You know, a girl in my sorority, Tracy Marcinko, got a perm once. We all tried to talk her out of it. Curls weren't a good look for her. She didn't have your bone structure. But thankfully, that same day, she entered the Beta Delta Pi wet T-shirt contest where she was completely hosed down from head to toe.

**Prosecutor (06:30):**

Objection. Why is this relevant?

**Elle (06:33):**

Oh, I have a point, I promise.

**Judge (06:34):**

Then make it.

**Elle (06:37):**

Yes. Chutney, why is it that Tracy Marcinko's curls were ruined when she got hosed down?

**Chutney (06:44):**

Because they got wet.

**Elle (06:45):**

Exactly. Because isn't it the first cardinal rule of perm maintenance that you're forbidden to wet your hair for at least 24 hours after getting a perm at the risk of deactivating the ammonium thioglycolate?

**Chutney (06:56):**

Yes.

**Elle (06:57):**

And wouldn't somebody who's had, say, 30 perms before in their life be well aware of this rule? And if, in fact, you weren't washing your hair, as I suspect you weren't because your curls are still intact, wouldn't you have heard the gunshot? And if, in fact, you had heard the gunshot, Brooke Windham wouldn't have had time to hide the gun before you got downstairs, which would mean that you would have had to have found Mrs. Windham with a gun in her hand to make your story plausible. Isn't that right?

[END CLIP]

**Emily Schifter (07:20):**

So many great lines again from that movie. So neither Mona Lisa nor Elle are experts in the way we might typically think of them, but in these clips, they each use their expertise about the world generally to poke holes in a witness's story to great effect in both cases. So, Paul, what does it mean to be an expert, and what is the difference between an expert witness and any other witness?

**Paul White (07:43):**

The difference between a lay witness or fact witness in a case versus an expert witness, the clip we just saw, Mona Lisa could have been a fact witness if she was testifying about what she personally saw at the crime scene, for example. But in this context, her testimony was coming in for the specific purpose of identifying which car could have left the tire marks found at the crime scene. Different things with different purposes, and therefore they're governed differently under the Federal Rules of Civil Procedure.

**Emily Schifter (08:11):**

That's right. And we hear in the clip that Mona Lisa manages to satisfy the court and Vinny's opposing counsel with respect to her expertise to testify about the tire tracks, even after she says in her own words she's not a mechanic, she is an out-of-work hairdresser. But Elle Woods, on the other hand, uses her general life experience. Another great line, she says, "The rules of hair care are finite and simple. Any Cosmo girl would have known." I don't have the same great delivery as Reese Witherspoon there. So how much does practical experience versus academic training or work experience matter? Would someone like Mona Lisa, given her experience with her family being mechanics as she testifies, hold up in real life?

**Paul White (08:53):**

Yeah. So why does it matter what Mona Lisa's job is and what her experience might be? Expert witnesses need to be qualified to testify in a case in their area of expertise, meaning just because someone is accomplished in their field may not mean that they're qualified to testify in a given case as an expert on a particular issue. There's a famous story in our line of business about a Nobel Prize-winning economist who was excluded from the case by a court because he

didn't take the time to learn the details about that particular case, and so he was testifying outside of his area of expertise. The expert and the attorneys supporting that expert thought that the fact that he won the Nobel Prize was enough to convince the court, but it turned out not to be the case.

**Tracey Diamond (09:35):**

Surprising, isn't it? Yeah. So what sort of tactics do lawyers use to try to discredit expert testimony?

**Paul White (09:41):**

They might challenge the ultimate conclusions in a report. Of course, the opposing attorney would not like the ultimate conclusions in a report. They would challenge the relevance of the analysis. They might push back on whether the witness is qualified to testify on the subject matter for which their opinion is proffered. Like in 'My Cousin Vinny', they might push back on the expert's qualifications generally, or looking for evidence of bias, a hired gun expert, et cetera. And in cross-examination, they're trying to prove inconsistencies in testimony or facts, or otherwise cast doubt on the strength of the testimony or witness. Like Elle Woods' dramatic example of impeachment by specific contradiction, evidence directly contradicting witness testimony. In real life, it's usually less dramatic, but it can be vitally important in determining what evidence stays in the case and what weight a jury or judge might give to it. Opposing attorneys will also research your past testimony record to look for opinions contrary to the ones you're giving in this case. So everything you've said in the past is out there for the opposing attorneys to see, and they might try to bring it up for you.

**Tracey Diamond (10:49):**

It's like that old adage that we say to our children, you know, whatever you post on social media is gonna come back. It lives forever. Here, it's very relevant, right?

**Paul White (10:58):**

That's exactly right. Great point.

**Emily Schifter (11:00):**

So you've talked a little bit, Paul, about some of the areas you advise on in the employment setting. But in an employment case, what does that mean in terms of the topics that you're testifying on as an expert?

**Paul White (11:10):**

A lot of the cases ultimately go down to calculation of damages, front pay, back pay, the value of benefits or equity losses. But that also brings up questions about mitigating efforts. And in a termination case, for example, what has a plaintiff done to try to mitigate their earnings? And

calculations of present value discounting, putting all the damages in today's dollars terms. And that can also be done in either a single plaintiff or class action case. In wage and hour calculations, a lot of times it involves calculations of lost overtime earnings, the valuation of off-the-clock work, or misclassification. And then in the discrimination world, disparate impact or disparate treatment pattern and practice cases. And as I mentioned, increasingly we're asked to conduct AI bias analysis either proactively or for litigation. But as you can imagine, the litigation hasn't really made its way through the courts yet to the point where there's a lot of testimony in those cases.

**Tracey Diamond (12:07):**

Can you talk a little bit about the AI bias analysis? You know, what's involved in that?

**Paul White (12:11):**

Yeah, it's a really fascinating line of analysis these days because think about all the areas in which AI can come into an employment process. It can initially screen applications automatically without any human input. And even the applications that get through, it can arrange and schedule interviews. And the person who's being interviewed can maybe be talking to another person or maybe be talking to an AI tool. And think of the things that a person uses to evaluate a particular applicant, their eye contact, their dictation, the ease of which the conversation is going. All those things are being scored by a tool, an AI. And that's just an example of a hiring process. Then you can imagine that covers also the promotion process and performance evaluations. So anything that can involve AI has the potential for being biased. And it's, again, very fascinating and very interesting to work with that kind of data.

**Tracey Diamond (13:15):**

Yeah, I've been getting this question a lot lately about what is actually involved because some statutes now require AI bias audits on a regular basis. You know, what is involved in parsing through that data to determine whether bias exists? How do you go about that without getting too into the weeds, obviously?

**Paul White (13:30):**

Yeah, yeah, sure. Well, just like we would do in a discrimination case, think about AI as just another measure of performance. Think about a call center, for example. The call center employee is talking to a customer. And in the old days, you used to hear when you called in a call center, there was this little recording that said, "This call may be recorded for quality purposes." Well, that might have been a person actually listening in the old days. Now there's a really good chance it's an AI tool. And that AI tool is listening for the tone of the customer, the tone of the call center employee, whether or not the customer's questions have been answered, whether their problem has been solved, how long the call has taken. All these metrics come into play. And there's this black box that a lot of people don't know. Only the vendors know what's going on in the black box. But the output of that is a score. Maybe it's a scale of one to five, but it's a score, just like a performance evaluation score. And the analysis of bias would be on that score itself and whether, say, females do better or worse than males on that score.

**Paul White (14:41):**

And so that's one area of analysis. But then also, how much does that score play into their performance evaluations, their bigger performance evaluations, and therefore their merit increases they get from one year to the next? So it's all really related. But at the end of the day, it boils down to a measure of performance.

**Emily Schifter (15:00):**

Yeah, and I want to go back to. You mentioned damages, and I think that's something people can sometimes gloss over if you are fortunate enough to have never gotten to the end of a case where you're actually dealing with, "Hey, the court is going to have to," or "The jury is going to have to decide damages." But it's relevant when you're at any stage of an employment dispute when you're trying to figure out, "What is my exposure here?" And it sounds really simple, back pay, front pay. But you're absolutely right. These things become a lot more complex when you're dealing with what does mitigation look like and how do you account for present value when you're looking at a FLSA question and it's, "What is the overtime liability?" And, "Well, it's just time and a half." It's never quite that simple. You've got to take into account what they've been paid, and we've got a whole class, and you've got different state rules on calculation. So I think having someone who's able to parse that and help you actually get down to brass tacks, rather than just a big round number of, "Here's Title VII's compensatory damage cap," can be really helpful and really important when you're trying to determine liability.

**Paul White (15:55):**

Exactly. On the damages piece, by definition, you have to calculate what somebody could have earned if the incident had not occurred. So there's some projection into the future regardless, and you have to make sure those assumptions are sound.

**Tracey Diamond (16:09):**

And in the olden days, in terms of mitigation efforts, we used to go back and look at old newspapers for want ads about what other jobs were out there for the person to have applied for and did they take action to mitigate their damages. Now it's not so easy to do because that data in paper form doesn't exist anymore. How do you go about that? And is that something you do, Paul, or is that more of a different type of expert?

**Paul White (16:33):**

We can look at the labor market and determine the number of job openings that have been posted. There's some data that we have access to that will essentially scrape the web for job postings in a certain geographic area for certain occupations in a certain time period. So it speeds up the process. Instead of looking at the papers, we can just download all the postings that have occurred during that time and hopefully convince the court that there have been or there have not been a lot of jobs open that this plaintiff could have applied to.

**Tracey Diamond (17:03):**

So interesting. Yeah. So let's move on to our next clip. We mentioned before that while many people are familiar with an expert witness's role testifying in court, experts can also help provide proactive advice behind the scenes by meeting with counsel to help them strategize and poke holes through the opposing party's expert witness's expertise. In both roles, one way they can help is taking very complex and often confusing concepts and making how to apply them to a given case or situation clearer, whether to a jury or even just to an HR department or C-suite faced with big decisions, or frankly, to the outside counsel that they're working with so that they understand the argument clearly. So to illustrate that point, let's take a listen to our next clip from the 2015 movie 'The Big Short'. Based on a book by author Michael Lewis, the movie uses fictional characters to depict the very real story of how the 2008 financial crisis was triggered by the US housing bubble. In this scene, the movie tries to distill the factors that led to the crisis down into something that the average viewer can understand, of course, involving Margot Robbie in a bathtub. Let's take a listen.

[BEGIN CLIP]

**Vennet (18:13):**

Mortgage-backed securities, subprime loans, tranches. It's pretty confusing, right? Does it make you feel bored or stupid? Well, it's supposed to. Wall Street loves to use confusing terms to make you think only they can do what they do, or even better, for you just to leave them the f alone. So here's Margot Robbie in a bubble bath to explain.

**Margot Robbie (18:36):**

Basically, Lewis Ranieri's mortgage bonds were amazingly profitable for the big banks. They made billions and billions on their 2% fee they got for selling each of these bonds. But then they started running out of mortgages to put in them. After all, there are only so many homes and so many people with good enough jobs to buy them, right? So the banks started filling these bonds with riskier and riskier mortgages. Thank you, Benzo. That way they can keep that profit machine churning, right? By the way, these risky mortgages are called subprime. So whenever you hear subprime, think shit. Our friend Michael Burry found out that these mortgage bonds that were supposedly 65% AAA were actually just mostly full of shit. So now he's going to short the bonds, which means to bet against. Got it? Good.

[END CLIP]

**Emily Schifter (19:38):**

So it's very tongue-in-cheek, but Margot Robbie's explanation is actually a pretty effective way to simplify the very complex world of subprime mortgages in a way that people can understand. And I think it's so funny they have her in the bathtub. I once had somebody tell me that lawyers are like bathtubs. They get filled up with the knowledge of whatever case they're working on, and then as soon as it is over, all of their knowledge goes away and then they move on to the

next case. So I thought that was particularly funny, especially here. So other than just making it so that people can understand what you're talking about, why is it so important to put complicated things in terms that non-experts can understand?

**Paul White (20:13):**

Yeah, especially in litigation, the courts and juries need a way to wrap their heads around sometimes complex and technical details that really matter to a case but might not be immediately straightforward. And so as an expert witness, it's our job to educate them and to make sure that we can explain in a way that they can understand. Not to talk down to them, but then just to make sure that we recognize that they may not have the training that others may have. So I find the best expert witnesses are those who obviously have direct relevant experience. But just as importantly, especially in litigation, they can clearly communicate the concepts to a judge or a jury, meaning they can walk and chew gum at the same time. And it also gives the jury a way to relate to the expert witness so that, again, you don't want it to look like you're talking down to anybody when you're testifying. And also importantly, the expert witness is very effective if they can anticipate the cross-examination questions and be prepared to answer them head-on in a calm and collected manner. It's really important for anybody who's working with an expert witness in litigation to challenge their own expert and to identify what the potential weaknesses may be of their own analysis.

**Paul White (21:30):**

And that gives you all the ammunition you would need to prepare for cross-examination. But in a consulting role, the expert can help the lawyers who are preparing to try the case understand the concepts so they know what they're arguing. The lawyers can better challenge opposing witnesses as well. And in a proactive counseling project, it's really important to explain to the stakeholders, not just the lawyers, but the HR, the executives, so they can understand where the risks lie and how the organization can benefit from making the changes. Otherwise, it's easy, especially in something that involves things like statistics or highly scientific topics, people can easily fall asleep and they just kind of let their eyes glaze over and they might just refuse to pay attention or they just may not try to even understand what's going on. And that can be worse.

**Tracey Diamond (22:23):**

So let's talk a bit more about some of these sorts of projects. You mentioned pay equity audits. As our listeners know, that addresses the issue of whether there are disparities in pay based on protected classes, for example, gender. What are you generally looking at there?

**Paul White (22:39):**

In pay equity audits, we find it's interesting that almost all employers, when we talk to them, they'll say they pay based on performance and they pay market rate salaries or some measure against the market rates. But that's really not enough because we often see in the data there's not much correlation between performance and salaries, and there's not much correlation between performance and merit increases. And so we have to find a way to explain to our

clients that there are other factors that explain compensation. So we look at variables like how long they've been with the company, how long they've been in their job, what their job title is, their geographic location, whether or not they were brought in by an acquisition or whether they were originally hired, things like that. All those other factors come to play. And the combined effect of all those factors is what really dictates somebody's compensation. Employers can either do it proactively or reactively. If you do it proactively, you can address or remediate a known issue, or you can anticipate potential issues down the road. We find it's much easier to help employers proactively because that means you can deal with a problem before it becomes a real problem.

**Paul White (23:56):**

Reactively, then you've got other issues like potential litigation. But some employers want to deal with it only if it becomes a problem. Statistically, often this involves a regression analysis, which is, without going into too much detail, it's just the statistical tool that allows us to account for the effects of all those factors that come into play at the same time. And we look to see if, after accounting for all those factors, is there a difference in compensation, say between males and females, that is statistically significant and unlikely to have occurred by random chance. And in doing so, you've got to consider the size of the workforce. You have to consider how people got into their jobs through employment selections and then any other variable that could impact the results. And the main conversation we have with employers is we want to understand their decision-making process. We want to model their process as closely as possible. But working with outside counsel, they have a very important role in this because we provide them with our statistical results. They provide the employers with their opinions on their potential legal exposure.

**Emily Schifter (25:01):**

What are the challenges that you commonly see in performing an audit like that?

**Paul White (25:05):**

The main challenge, I think, is the lack of clear or good data. We spend more than 80% of our time just cleaning up the data and getting it in a place where we can do the analysis. But in addition to that, if there are inconsistent records, if there's not a large enough sample size, if the employer is not very well coordinated amongst themselves as to what exactly they want to accomplish through this audit, it could lead to a lot of inefficiencies. And as I said, at the end of the day, we want to build a model that reflects their decision-making process. If you don't, you're gonna get some false positive or false negative results, which is not good for anybody. Then some employers are better than others with respect to just their organizational structure. And the more structured they are, the more they clean up their data before it gets to us, the more efficient we can be.

**Emily Schifter (25:56):**

And less expensive it'll be for them, right?

**Paul White (25:58):**

Absolutely.

**Emily Schifter (25:59):**

What other sorts of consulting projects do you get involved in, Paul, on the labor and employment side? We've talked about a lot already, but what else do you do?

**Paul White (26:06):**

Yeah, just really quickly, think about the entire employment process. You've got applications, the evaluation of applications, interviews, hiring, starting salary, job placement, performance evaluations, promotions, terminations. Anything that happens to somebody during their employment experience, any stage of those are subject to claims of discrimination and could be monitored to ensure there's no bias. And we talked earlier about expert witnesses for wage and hour cases just to ensure people are paid for all their time worked and at their correct rate of pay. And in some instances, depending upon the economy, we're asked to do some proactive reduction in force layoff analysis where the question is, for example, are older employees disproportionately targeted for layoffs?

**Tracey Diamond (26:53):**

One area also that I know you probably don't delve into as much since you're an economics expert, but I think is an important point to make is in the restrictive covenant, misappropriation of trade secrets type cases. Oftentimes, we'll use a technical expert who will assist in pulling the trade secret information out of laptop computers and emails and other forms of electronic communications to analyze them to determine whether they are, in fact, trade secret confidential information. And then they may be witnesses on the stand in a preliminary injunction hearing, for example, on that type of case. So also a very important use of expert witnesses.

**Emily Schifter (27:29):**

And a lot of math. And all of that math would explain one reason why you might want an expert instead of your lawyer by themselves doing this sort of analysis. So how can experts and lawyers work together on projects like this? What does each bring to the table?

**Paul White (27:42):**

Well, the expert will conduct the analysis and make sure the analysis is scientifically sound. The expert works at the guidance of the attorney. And I insist on working with outside counsel whenever possible because, A, it helps with the privilege for protecting the results of the work that we do, but also we have to give the outside counsel the information they need to give legal advice to their clients. And I don't want to be put in a position of an employer asking me what I think should be done from a legal standpoint because that's not my area of expertise, and I certainly don't want to provide legal advice. So the attorney is great about making sure they can speak our language a little bit, but then also making sure that what we do is communicated in a

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practical way for the employer, that the employer can act upon it, but taking into account their legal risk, their budgets, the political issues going on within their organization, et cetera.

**Emily Schifter (28:44):**

That privilege point is so important because sometimes you can do an analysis or an audit and if you find something, and to your point, people always think they're doing the right thing, paying for performance, paying based on market, but sometimes the data can show something different, whether inadvertent or not. And if you're not prepared to immediately act on it, that information could be particularly harmful evidence in a case or if somebody decided to claim discrimination. And so having the privilege protect it can be really important.

**Tracey Diamond (29:10):**

Really crucial. Yeah. So listeners who haven't worked with an expert before may be wondering about how much does it cost? So, Paul, what features of your engagements have the most impact on cost?

**Paul White (29:21):**

Great question. So a lot of times we get the question of, "If we have a small workforce, is it gonna cost less? Or if we have a large workforce, is it gonna cost more?" And surprisingly, it's really not the size of the workforce because the computer can run the analysis on 100,000 people as quickly as it can on 100 people. Really what affects the cost, as I mentioned, is the quality and the completeness of the data and the number of analyses we're asked to conduct. If the client and outside counsel are coordinated about the scope in advance, and if the data has been checked for inconsistency ahead of time, the analyses don't really take much time to do. It really makes our lives a lot easier. And again, the costs are much more efficient. For litigation engagements, that's harder to predict because you have the influence of the opposing attorneys. But when you factor in deposition, trial testimony, there's again less predictability in the cost of litigation. But the theme about the data quality still has the largest impact on cost. So anything employers can do to perform internal data checks before sending it to us will help save on our costs for sure.

**Emily Schifter (30:30):**

Is there anything else that can be done to make working with an expert more cost efficient?

**Paul White (30:34):**

Yes, stay in constant communication. Employers and attorneys should not hesitate to discuss costs with their experts. Ask for a cost estimate in advance. Be open to modifications if the scope of the project increases. But also if the scope of the project decreases, then the employers rightfully should expect that the cost would come underneath the initial estimate. Employers and attorneys should discuss the staffing model that the expert's planning to use and look for a structure like law firms where much of the work's leveraged to lower-cost team

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members. And then my favorite tool for managing costs is regular weekly cost updates. The invoices usually come once a month or so, but weekly updates are great because it makes sure there's always an open line of communication between the expert and the attorney and the client, and it also makes sure that the type of work that we're doing, there are no surprises and we're not going off track from one week to the next.

**Tracey Diamond (31:31):**

So, Paul, thank you for joining us today, and thank you to our audience for listening to today's episode. Don't forget to visit our blog, [hiringtoiring.law](https://www.troutman.com/blog/hiringtoiring.law), and subscribe so you can get the latest updates. Please make sure to also subscribe to this podcast via Spotify, Apple Podcasts, Google Play, Stitcher, or whatever platform you use. Also, don't forget to check out our firm's other podcasts on [troutman.com/podcasts](https://www.troutman.com/podcasts). We look forward to next time.

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