**Section 1848.11 Expert Witnesses**

a) Definitions.

1) Definition of expert witness. An expert is a person who, because of education, training or experience, possesses knowledge of a specialized nature beyond that of the average person on a factual matter material to a claim or defense in pending litigation and who may be expected to render an opinion within his expertise at hearing. He may be an employee of a party, a party or an independent contractor.

2) Consulting expert. A consulting expert is a person who possesses the same qualifications as an expert witness and who has been retained or specially employed in anticipation of litigation or preparation for hearing but who is not to be called at hearing to render opinions within his area of expertise.

b) Disclosure.

1) Expert witnesses. Where the testimony of experts is reasonably contemplated, the parties shall act in good faith to seasonably:

A) Ascertain the identity of such witnesses; and

B) Obtain from them the opinions upon which they may be requested to testify.

2) The hearing officer shall enter an order scheduling the dates upon which all expert witnesses shall be disclosed. Upon disclosure, the expert's opinion may be the subject of discovery as provided in subsection (c). Failure to make the disclosure required by the hearing officer or to comply with the discovery contemplated in this subsection will result in disqualification of the expert as a witness.

3) Consulting expert. Except as provided in subsection (c)(5), a party need not disclose the identity of a consulting expert.

c) Discovery.

1) Upon interrogatory propounded for that purpose, the party retaining or employing an expert witness shall be required to state:

A) The subject matter on which the expert is expected to testify;

B) His conclusions and opinions and the bases therefor; and

C) His qualifications.

2) The party answering such interrogatories may respond by submitting the signed report of the expert containing the required information.

3) A party shall be required to seasonably supplement his answers to interrogatories propounded under this Section as additional information becomes known to the party or his counsel.

4) The provisions of subsections (c) and (d) also apply to a party or an employee of a party who will render an opinion within his expertise at the time of hearing. However, the provisions of subsections (c) and (d) do not apply to parties or employees of entities whose professional acts or omissions are the subject of the litigation. The opinions of these latter persons may be the subject of disclosure by deposition only.

5) The identity, opinions and work product of consulting experts are discoverable only upon a showing of exceptional circumstances under which it is impracticable for the party seeking discovery to obtain facts or opinions on the same subject matter by other means. However, documents, objects and tangible things which are in the possession of a consulting expert and which do not contain his opinions may be obtained by a request for that purpose served upon the party retaining him.

6) Unless manifest injustice would result, each party shall bear the expense of all fees charged by his expert witness or witnesses.

d) Scope of testimony. To the extent that the facts known or opinions held by an expert have been developed in discovery proceedings through interrogatories, deposition, or requests to produce, his direct testimony at hearing may not be inconsistent with nor go beyond the fair scope of the facts known or opinions disclosed in such discovery proceedings. However, he shall not be prevented from testifying as to facts or opinions on matters regarding which inquiry was not made in the discovery proceedings.