

Brooks Hilliard's Qualifications as an ERP Expert Witness

Education and Academic Background

- **M.B.A. from Harvard Business School** with emphasis on small business management and marketing
- **Bachelor of Science degree from Massachusetts Institute of Technology (MIT)** with Deans' List academic honors in mechanical engineering
- Served as a Faculty Associate with the Arizona State University School of Business

Professional Certifications

- **Certified Management Consultant (CMC)** - An International Standards Organization ISO/IEC 17024:2003 accredited certification awarded by the Institute of Management Consultants USA
- **Certified Computing Professional (CCP)** - Awarded by the Institute for the Certification of Computer Professionals
- One of fewer than 15 consultants in the world to attain both the CMC and CCP certifications
- The only actively practicing expert witness in the world with both CMC and CCP certifications

Professional Experience

- More than 40 years of computer industry experience
- President of Business Automation Associates, Inc., an independent management consulting firm based in Phoenix, Arizona
- Completed more than 200 consulting engagements for firms in a wide variety of industries and professions
- Prior to founding Business Automation in 1980, held management positions in software development, sales, marketing, field service, contract negotiations, and general management at various computer companies
- Maintains independence with no affiliation with any supplier of computer-based systems

- Has recommended software from most major developers and systems using computers from nearly all major manufacturers
- Authored a book, "Buying a Computer for Your Growing Business, An Insider's Guide" published by Dow Jones-Irwin

Expert Witness Experience

- Testified more than 70 times in computer-related cases
- Engaged as a testifying and/or consulting expert in dozens of other cases (in more than 36 states)
- Qualified as an expert and testified in both state and federal courts
- Given testimony in arbitrations, mediations, and formal governmental hearings
- Successfully Daubert tested and qualified as an expert in both state and federal jurisdictions
- Approximately half of Business Automation's engagements have been expert witness/consultant projects

ERP-Specific Expert Witness Experience

- Consulting and testifying expert in more than 50 cases involving ERP, CRM, SCM, and other enterprise software
- Represented both buyers' and vendors' counsel in these cases
- Extensive experience with cases involving:
 - Software defects
 - Faulty operation
 - Defective performance
 - Fraud and misrepresentation
 - Allegations of negligence
 - Inadequate testing
 - Flawed development
 - Deficient implementation services below minimum industry standards
 - Ineffective or nonexistent software quality control
 - Lack of service/support
 - Reliability or performance below minimum industry standards

Notable ERP Case Examples

1. Testified for a Regional Wholesale Construction Products Distributor that was sold a manufacturing ERP/SCM software system which failed to perform crucial product

distribution functions including multi-warehouse inventory management and over-the-counter sales (favorable jury verdict)

2. Testified for a major Developer of ERP software regarding its culpability for an unsuccessful software implementation done by a third party (favorable jury verdict)
3. Testified for a Manufacturer of Medical Products against a major ERP software developer regarding software that was represented as fully operational and tested, but was defective and unreliable and ultimately withdrawn from the market (favorable arbitration decision)
4. Testified for a Developer of ERP software for Process Manufacturers regarding collection of implementation fees after its customer changed requirements multiple times during implementation (deposition testimony)
5. Testified for a major ERP software developer regarding the implementation of its software for a state government regarding issues resulting from a change in the contracting agency and subsequent overhaul of functionality requirements (settled after deposition testimony)
6. Testified in copyright matter regarding alleged misuse of licensed software to provide independent third-party support for ERP software (deposition and trial testimony)
7. Multiple engagements relating to whether one ERP software application was derived based on information gained from alleged misappropriation of trade secret from another software developer

Professional Associations and Activities

- Served as a National Board Member and Chairman of the Ethics Committee for the Institute of Management Consultants USA
- Board member for the Arizona Harvard Business School Association
- Board member for the Arizona M.I.T. Alumni Club
- Active participant in the Arizona State Bar Technology Task Force
- Member of the Arizona Technology Council
- Member of the Independent Computer Consultant Association
- Member of the Forensic Expert Witness Association
- Member of the IEEE (formerly the Institute of Electrical and Electronics Engineers)
- Member of the Project Management Institute

Expert Witness Methodology

- Begins every assignment with an objective approach, regardless of which side has engaged him
- Provides impartial analysis, forensic investigation, and courtroom testimony
- Activities include:
- Review of actions by software developers, implementation partners, and software licensees
- Review of electronic discovery
- Production of opinion letters and affidavits
- Assistance in case strategy
- Preparation of interrogatories and deposition questions
- Deposition testimony
- Trial testimony
- Assistance in settlement negotiations

Industry Recognition

- Done commentary for Public Radio International's nationally-syndicated MARKETPLACE news program
- Led seminars for the American Management Association
- Spoken professionally at numerous computer, management, and other professional meetings
- Attorney references and case captions available on request