# Audience Handout Package

*Opposing Expert Testimony: Preparing Before and Analyzing After 10/22/2026*



**DATE**

10/13/2026

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Pete Fowler CONSTRUCTION Services, Inc.

Project #25-1185

Pete Fowler CONSTRUCTION Services, Inc.

# Audience Handout Package

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| Date: | 10/13/2026 |
| From: | Pete Fowler Construction Services, Inc. |
| Project: | Opposing Expert Testimony: Preparing Before and Analyzing After 10/22/2026 (PFCS 25-1185) |
| Regarding: | Audience Handout Package |

## Meet the Panelists

### Pete Fowler

#### CHIEF QUALITY OFFICER - PETE FOWLER CONSTRUCTION CONSULTANTS

Pete Fowler is a construction consultant, professional cost estimator, President and Chief Quality Officer of Pete Fowler Construction, a licensed general building contractor in California, Nevada, and Oregon. Pete received a B.S. in Construction Management from CSU, Chico. He has held certifications from AAMA, ASPE, ICBO, and others. Mr. Fowler has published articles in national magazines, has been invited to speak by the most important groups in the building industry (AAMA, APRA, ASPE, ASQ, ASTM, BETEC, CAI, CLM, DBIA, ICC, NIBS, PLRB, RCI, etc.), and has composed and delivered hundreds of educational programs on building inspection & testing, estimating, quality & construction management, project management, and claims & litigation. Pete has experience with successful expert witness testimony, including Federal Court.

## Lee Kantor

### MANAGING PARTNER - HIGHTOWER, STRATTON, NOVIGROD & KANTOR

Since joining the firm, Lee has become an experienced trial attorney. Lee has garnered a reputation as an aggressive litigator not afraid to take a case to trial before a jury. He has obtained numerous defense verdicts as well as countless favorable settlements for his clients including the Champlain Towers South condominium collapse in Surfside. Lee is a member of the Trial Law Institute and Diversity Law Institute. He has been named a Florida *Super Lawyer©,* Litigation Counsel of America Fellow for defense of his corporate clients in auto negligence, bodily injury, commercial property, construction defect, hospitality liability, public entities, state governments, trucking and transportation, windstorm, and workers compensation.

Lee was named a Top Lawyer by *Palm Beach Illustrated (2020-2025), Florida Trend Legal Elite* ***NOTABLE*** *- Managing Partner for 2023,* 2024, 2025 and named to the 2024, 2025 and 2026 edition of *The Best Lawyers in America®* for Litigation - Construction. Lee is the Managing Partner of the firm and is the chairman of the firm's Business Development committee.

## Ivette Kincaid

### PARTNER - KAHANA & FELD, LLP

Ivette Kincaid is a Partner at Kahana Feld and Chair of the Construction Defect Practice Group. Ms. Kincaid is also a member of the general liability and insurance defense practice groups. Ms. Kincaid has 27 years of experience representing clients in complex construction defect litigation, complex bodily injury litigation, catastrophic injury and general insurance defense matters. Ms. Kincaid focuses on the defense of homebuilders, contractors, developers and real estate professionals primarily in construction defect, general liability, insurance defense, construction accident and real estate matters. Ms. Kincaid also has extensive experience in the defense of companies and individuals as it pertains to general liability and personal injury matters. Ms. Kincaid is on the board of directors for the National Association of Women in Construction (NAWIC) Orange County Chapter.

Ms. Kincaid is known as an effective, professional and thorough litigator. She understands the importance of early evaluation of cases to ensure they are being properly and efficiently prepared for either settlement or trial.

# Opposing Expert Testimony: Preparing Before and Analyzing After



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# Opposing Expert Testimony: Preparing Before and Analyzing After

## INTRODUCTION

Testimony is what legal cases are made of. It is the most compelling evidence of all. Therefore, we should think VERY hard about the testimony in every legal matter we work on. First, we need to elicit the testimony we need, then, we need to analyze, summarize, and use it in well supported arguments.

In our work on building-related claims, we sometimes know (or think we know) what is going on without reviewing testimony, because construction projects are so document intensive. But in other cases we learn almost 100% of the "facts" from testimony. Of course, the "facts" described in testimony are not carved in stone. At best testimony is based on memory, prompted by contemporaneous documentation, and at worst it's intentionally false.

Every litigated case is a competing story of who is right and wrong, and how the law applies. Our primary job as expert consultants and witnesses is to organize and understand the evidence and explain it to our clients in plain language so that they can make smart decisions.

This program is all about how attorneys and experts should collect, organize, summarize, analyze, share, and use testimony to make and support their case. We will begin with our basic analysis. Then we'll be on to preparing for and questioning witnesses, analyzing testimony, and utilizing testimony in opinions and reports.

## PROGRAM OUTLINE

1. Introduction
2. Construction Claims Analysis
3. Preparing to Question a Witness
4. Questioning the Witness
5. Testimony Transcript Analysis
6. Using Testimony in Analysis and Reports
7. Conclusion

## LEARNING OBJECTIVES

- Understand how testimony should be used in litigation, especially by experts.
- Discuss strategies for preparing to examine witnesses.
- Learn how to analyze and summarize testimony.
- Show how to use testimony in supporting the case and in expert reports.

## BACK-UP MATERIALS

1. Issue by Issue Analysis
2. Sample Deposition Questions
3. Summary of Deposition Analysis
4. Communication in Writing (2 p excerpt)

## PROGRAM CONTENTS

1. Introduction – 5 Minutes
    A. Who We Are
    B. Presenter Information
    C. Program Introduction
    D. Learning Objectives
2. Construction Claims Analysis – 10 Minutes
    A. Construction Claims Analysis
    B. Rowing in the Same Direction
    C. Basic Analysis
    D. Levels of Analysis
    E. Issue by Issue Analysis Report
    F. Putting It All Together: Humpty or Frankenstein?
    G. Project Deliverables
3. Preparing to Question a Witness – 10 Minutes
    A. Do You REALLY Understand the Issues?
    B. What Do We Need from the Witness?
    C. What Documents will You Need as Exhibits?
    D. Qualification Questions
    E. Testimony Questions Example
    F. Video of Deposition?
    G. When the Time to Perform Has Arrived...
4. Questioning the Witness – 10 Minutes
    A. "No plan survives contact with the enemy." - Helmuth von Moltke
    B. The 8 W's
    C. Deposition vs. Arbitration vs. Trial
    D. Perry Mason
    E. Greased Pig
    F. Take Your Expert into the Deposition?
    G. Q & A Examples
5. Testimony Transcript Analysis – 10 Minutes
    A. Document Summary & Analysis
    B. Communicating in Writing
    C. Testimony Summary & Analysis
    D. What's the Context, Theme, or Story?
6. Using Testimony in Analysis & Reports – 10 Minutes
    A. Example of Testimony in a Report
    B. Deposition vs. Arbitration vs. Trial
    C. Admissibility of Expert Testimony
7. Conclusion – 5 Minutes
    A. Continuing Education
    B. Back-Up Materials
    C. Feedback

Pete Fowler CONSTRUCTION Consultants

Thursday, October 22nd, 2026 @ 10:00 AM PT

# Opposing Expert Testimony: Preparing Before & Analyzing After

With Pete Fowler, Lee Kantor, and Ivette Kincaid

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ABOUT US

# Building Experts.

Helping Smart People
Make Smart Decisions



Construction Defects



Property Claims



Personal Injury Claims



Contract Claims



Estimating, Quality & Construction Management

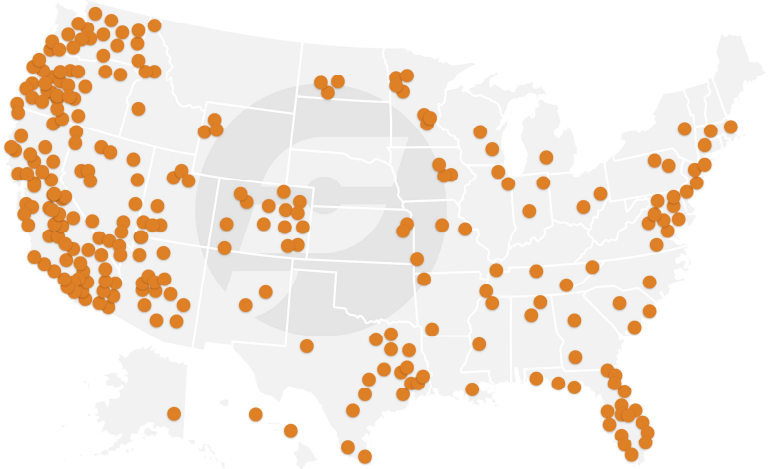


Fire Claims

2

# Project Map

Pete Fowler CONSTRUCTION Consultants



## Our Clients

1. Lawyers
2. Insurers
3. Builders, Developers & Construction Contractors
4. Product Manufacturers & Suppliers
5. Government
6. Financial Institutions Including Lenders
7. Property Owners & Managers

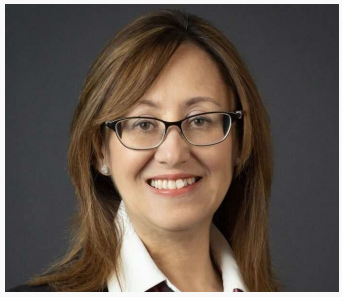
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# Meet our Presenters



**Pete Fowler**

Chief Quality Officer
Pete Fowler Construction Consultants



**Ivette Kincaid**

Partner
Kahana & Feld, LLP



**Lee Kantor**

Managing Partner
Hightower, Stratton, Novigrod & Kantor

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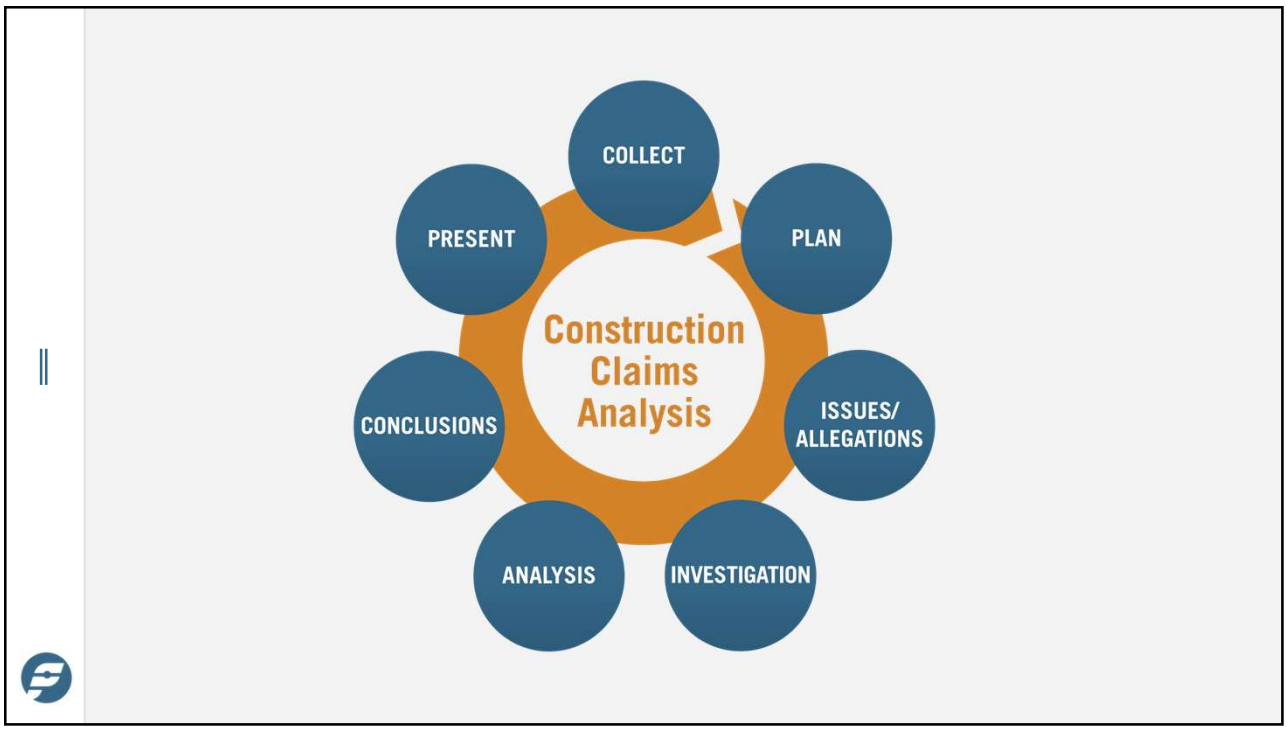

Outline
OPPOSING EXPERT TESTIMONY
Introduction
Construction Claims Analysis
Preparing to Question a Witness
Questioning the Witness
Testimony Transcript Analysis
Using Testimony in Analysis and Reports
Conclusion

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# Learning Objectives

- Understand how testimony should be used in litigation, especially by experts.
- Learn how to analyze and summarize testimony.
- Discuss strategies for preparing to examine witnesses.
- Show how to use testimony in supporting the case and in expert reports.

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COLLECT
PLAN
ISSUES/
ALLEGATIONS
INVESTIGATION
ANALYSIS
CONCLUSIONS
PRESENT
Construction
Claims
Analysis

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# Basic Analysis

1. Images
2. One Minute Summary
3. Plan Summary
4. Timeline
5. Players
6. Issues
7. Key Files
8. Inspection Summary
9. Technical Summary

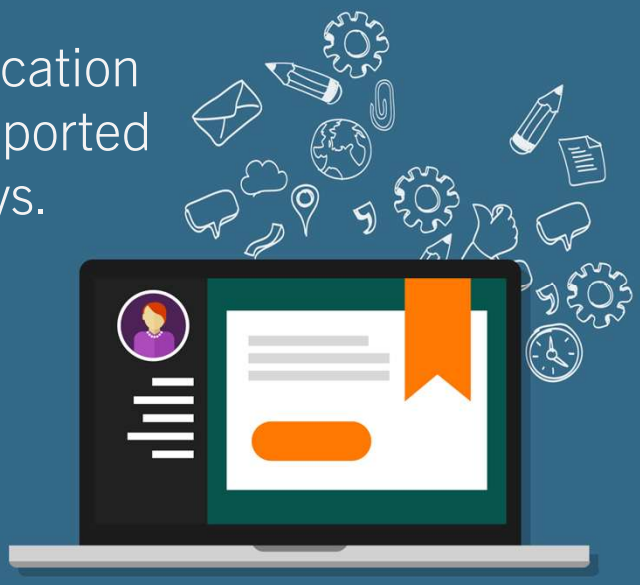
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# Levels of Analysis

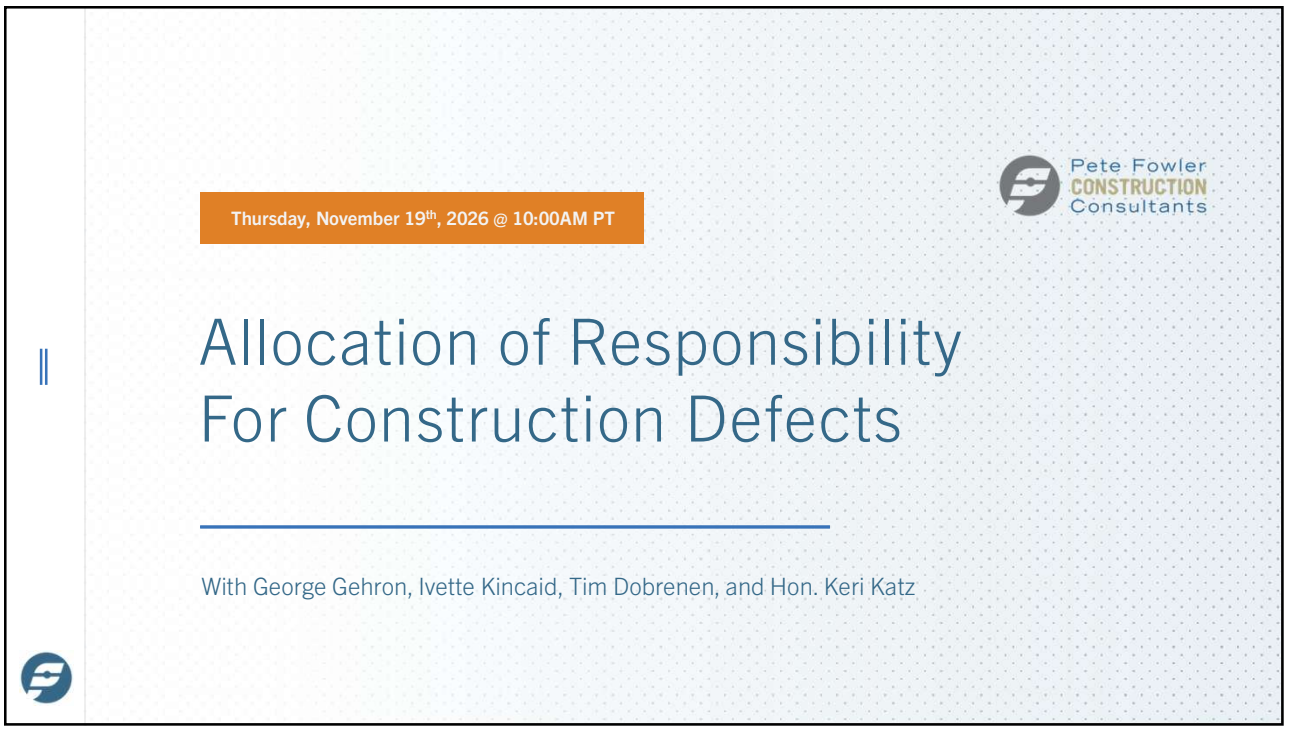
- Level 1: Preliminary Analysis
- Level 2: Analysis
- Level 3: Detailed Analysis
- Level 4: Deposition
- Level 5: Trial

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Continuing Education Credit will be reported within thirty days.



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Pete Fowler
CONSTRUCTION
Consultants
Thursday, November 19th, 2026 @ 10:00AM PT
Allocation of Responsibility
For Construction Defects
With George Gehron, Ivette Kincaid, Tim Dobrenen, and Hon. Keri Katz

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