

JUDICIAL INSPECTION



The purpose of expert evidence is to prove the truth of what is being discussed in Court, whether under analysis of the claim deduced in the initial statement or as a way of guaranteeing the maintenance of the status quo in favor of the defendant.

The legal basis for **expert evidence** is set out in articles 464 to 480 of the Code of Civil Procedure.

Expert evidence consists of an examination, inspection or evaluation, depends on special and technical knowledge, necessary in view of other evidence produced in the process, granted by the court ex officio or at the request of the parties.

The production of expert evidence **may be waived when the parties**, in the initial and in the defense, present, on questions of fact, technical opinions or clarifying documents that are considered sufficient by the judge ([art. 472, CPC](#)).

According to the legal rule, the judge must reject the expert opinion when: (i) the evidence does not depend on specialized technical knowledge; (ii) in view of the others produced, the expert evidence proves unnecessary; and (iii) it is not possible to carry out the examination, inspection or evaluation, given the particularities of the specific case.

The expert is someone the judge trusts, who is appointed by him. Therefore, the same rules applicable to the judge with regard to suspicion apply to the expert, as much as the judge, the expert must be impartial.

The doctrine points out the importance that [Law 8,455/1992](#) gave to technical assistants, they are assistants to the parties and chosen and appointed by them, regardless of commitment.

Thus, they are not subject to suspicion or impediment, as their action consists precisely of collaborating with the interest of the party.

It is also necessary to follow the essence of the process to formulate consistent evidence, which allows the magistrate to know about the object of the dispute, in order to be able to make his decision, reaching the formal truth, getting as close as possible to the real truth, so that it can be done in this way. justice.

In this circumstance, among the various tests provided for and accepted by our legal system, expert evidence is outstanding, due to its objective, which consists of clarifying facts with a high degree of complexity and technique, escaping almost or completely from magisterial knowledge, and to remedy this deficiency, they turn to experts and technical assistants.

Our current legislation does not provide for a hierarchy or specificity between the tests, however the judge will be able to evaluate the importance of each piece of evidence in forming his decision. But expert evidence plays an essential role in the judgment of disputes, and often in the specific case it assumes vital importance in concretizing and resolving the judicial impasse, overriding other evidence produced to reach a verdict.