

August 9, 2012

On May 9 2012 the Ontario Court of Appeal released its decision in *Alfano v Piersanti*, upholding the trial judge's decision following a three-day *voir dire* that the evidence of the defendant's proposed expert was inadmissible on the basis that the expert was neither objective nor independent. The case is a useful reminder that where an expert witness appears to be an advocate for his or her client and to lack the essential qualities of objectivity and independence, it can be argued that the expert's evidence should not be admitted, and that in determining whether to admit the evidence, the court may consider communications between the expert and the party. An expert's lack of independence does not go solely to the weight of his or her evidence. The case confirms that while a lawyer may act as a hired gun, at least in Canada, an expert may not.

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