

COURT ORDER

With a massive foodservice industry in the US it's no wonder that it attracts its fair share of lawsuits. Karen E. Thuermer looks at the role consultants can be called to play as expert witnesses.

Consider the plethora of lawsuits involving the hospitality industry: food poisoning, partners suing partners, sexual harassment issues, slips, falls, alcohol liability, premises liability, lease violations, management changes, and government regulations. No wonder there's need for expert witnesses.

“Cases can be varied and may include: Franchise vs Franchisor disputes; landlord and tenant disputes; labor and employee issues; and exclusivity in a trade area,” says **Arlene Spiegel** FCSI, president of Arlene Spiegel & Associates. She was the expert witness in a landlord-tenant dispute regarding an exclusive use clause. Here, a shopping center owner rented space to a bagel operator who sold baked goods.

“An existing tenant, who operated a well-known donut/bakery concept, sued the landlord for breach of contract claiming the bagel store also sold donuts, which competed with his business. The landlord had to ask the bagel store to stop selling donuts but allowed other baked goods,” she recalls.

JOB CREDENTIALS

Expert witness can help foodservice establishments in all types of cases. But as Spiegel says, “It’s important that expert witnesses are experienced, credentialed and a recognized professional with expertise in the overall and specific aspects of the food and beverage and hospitality industry.”

In addition, the foodservice consultant provides advisory services, research and case studies to the legal team. “The specific ‘case to be made’ on either side needs to be explained to the legal representatives based on precedent or what is customary and usual,” she adds.

CHALLENGING WORK

Being an expert witness is not easy work. “If the case goes to trial, there are days of prep and role-playing,” Spiegel says. “All supporting documents need to be numbered and identified for the court for recording.”

