

# THE DARK SIDE OF SPORTS

## Taking it to the Courts

Insight into the forensic expert's report

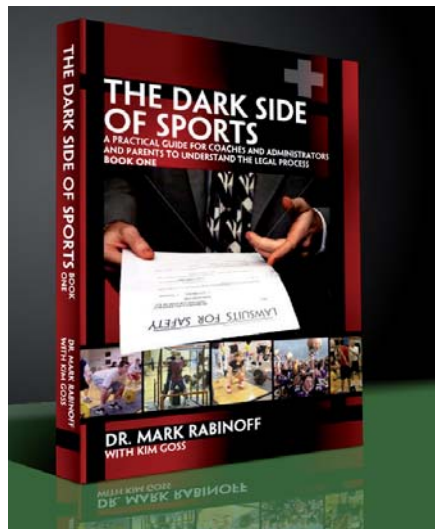
BY DR. MARC RABINOFF

A formal report is required in federal court unless the court has opted out of such a requirement, and many state courts have adopted federal rules. Further, in most states there are specific deadlines by which an attorney must disclose or provide to the court and opposing counsel the forensic expert's report. In lawsuits involving weightrooms, you should expect to deal with formal reports from forensic experts.

Although the attorney is responsible for requesting a formal written report, the forensic expert should ask beforehand whether a written report will be required and when it is due. A good forensic expert will use an organized note-taking system during the investigation of the evidence that can go a long way in helping to prepare a report.

Before writing the report, the forensic expert will compile all the data gathered during discovery and review them to determine how the report should be organized. The forensic expert should clearly state his or her opinions regarding information uncovered during discovery.

Consequently, the attorneys should inform the expert of the facts required to develop the burden of proof. It is



This chapter is an excerpt from Dr. Marc Rabinoff's book, *The Dark Side of Sports: a Personal Journey Through a Sports Liability Lawsuit*.

critical that the attorney know and understand what the expert witness will say during the trial. The forensic expert's report should be concise and based on testimony and research from the industry or specific discipline. Throughout the writing process the forensic expert should anticipate rebuttals by forensic experts representing opposing counsel. Here are a few other qualities of the good report. It should...

- State upfront whether the report is preliminary or final
- Identify the educational and

practical experiences of the forensic expert, as well as the information discovered in data collection, that helped form the basis for the opinion

- Refer to specific testimony, documents and objects as reviewed to provide concrete evidence for the opinions and conclusions expressed in the report

- Reach a conclusion

- State that the forensic expert is willing to review future issues and that these would be included in any additional reports requested

- Include the forensic expert's signature and appropriate title. Titles can include earned degrees, professional rank, certifications or business job titles

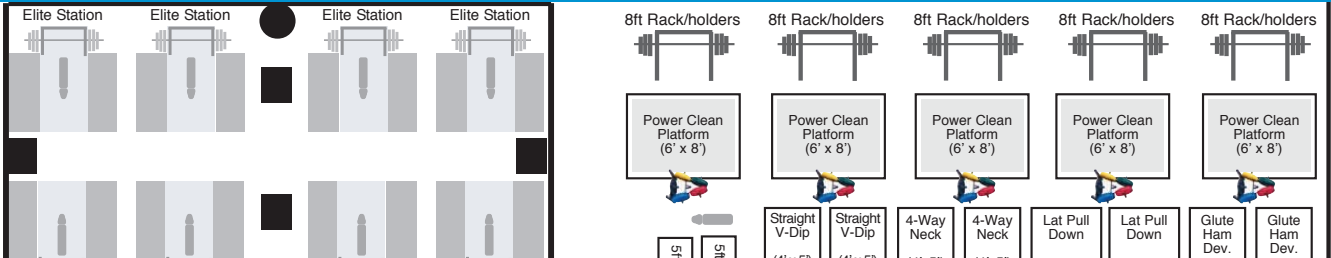
An attorney will often suggest alternative ways for the expert to express a conclusion or opinion, but such suggestions should be limited to elements of style and should not affect the content of the opinion. The forensic process is a team effort. **EF**

*"The Dark Side of Sports" is a regular feature by Dr. Marc Rabinoff that answers questions about safety and liability based upon actual litigations.*

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