

It is not sufficient to take video evidence into court, hit 'play' and assume that the jury will fully understand what they are seeing. To ensure that they do, you need to have the video explained to them by one or more qualified expert witnesses.

The reason: "Relying on video evidence without expert interpretation risks failure to reach the correct conclusions based on the evidence or worse, reaching the wrong conclusions," says Hak. "Expert analysis and interpretation will assist in understanding the impact of such technical and practical issues as multiple camera views, frame rate, aspect ratios, compression, the tracking of people, vehicles and objects, and the alignment of audio to video images."

"The Supreme Court of Canada, in *R. v. Nikolovski*, recognized and endorsed the analysis of video evidence at the image by image level, clearly accepting that merely playing surveillance video evidence will not maximize the value of such evidence," he adds. "A properly trained and qualified expert will have spent many hours examining the video evidence and can assist the trier of fact in appreciating not only the overall events that are depicted but the fine details that are often otherwise overlooked or misunderstood."

The bottom line

Video evidence is a lot like nitroglycerin: Properly handled, it can demolish an opposing counsel's case. Carelessly managed, it can blow up in your face.

For this reason, those offering video evidence need to use it with the greatest of care. Meanwhile, those trying to oppose such evidence should be meticulous in their attack, because there are ways that such evidence can be legitimately challenged as irrelevant, inaccurate, unfair, unauthenticated, and prejudicial, and thereby excluded from evidence.

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