

**The Neutral Factfinder as a Pathway to Legal Reform:  
Examples from Franchising**

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**Abstract**

Expert testimony is often tainted with accusations of bias and falsehood. A neutral factfinder, similar to the French *huissier*, could alleviate many of the problems posed by expert testimony in the American legal system. To demonstrate the effect a neutral factfinder may have, this Article focuses on examples from franchise litigation.

In the franchise context, a neutral factfinder could be used to address a variety of business custom, valuation, intellectual property, and contract interpretation issues that arise between the franchisor and franchisee. The neutral factfinder would help to reduce the bargaining power disparity arising when a small business owner franchisee seeks to take on a much larger franchisor. In these cases, a more powerful party that might have simply inundated the judge or jury with “expertise” is instead subject to a more even contest, with a neutral factfinder helping facilitate that process. Indeed, the benefits of a neutral factfinder are not limited to franchise litigation, but apply in many areas.

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