What is an expert witness in the South African context?

Zinn and Dintwe (2015, p 271) define an expert witness as 'a witness who is allowed to give opinion evidence.' As explained by Poynter (2005) an expert witness has technical knowledge and expertise and can therefore express an opinion on issues falling within his or her expertise. In terms of the South African law of evidence, where disputed writing is involved, the South African courts require an expert in document examination to provide witness testimony, i.e. testimony about the disputed writing, which the court would not be able to observe on its own.

In Section 228 of the Criminal Procedure Act, 51 of 1977, South African courts make provision for the comparison of handwritings.

'Comparison at criminal proceedings of a disputed writing with any writing proved to be genuine, may be made by a witness, and such writings and the evidence of any witness with respect thereto, may be submitted as proof of the genuineness or otherwise of the writing in dispute.'

Koppenhaver (2002, p4), provides a comprehensive definition of an expert as ' a person qualified by knowledge, experience, special training or skill, who is capable of forming an accurate opinion.'

The question is therefore whether the skills and knowledge of a document examiner would benefit the court in its work? Kam's (2001) study compared the ability of experts and non-experts to examine questioned signatures and to determine whether the signatures were genuine or simulations (forgeries). His study showed a significant difference in the error rate for determining the genuineness of signatures, between document examiners (0.49%) and laypersons (6.47%). These studies by Kam as well as studies by Sita, Found, and Rogers, (2002), provide clear statistical proof of the greater accuracy of conclusions drawn by document experts as opposed to opinions obtained from laypersons. The results of Dr. Kam and Dr. Found's research provide statistical reasoning for allowing the expert to provide opinion.