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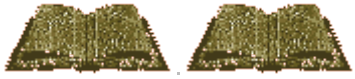
# Book Reviews: Technical Books Section



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## THREE VALUABLE BOOKS FOR MEDICOLEGAL PROFESSIONALS

How to Excel during Cross-Examination - Techniques for Experts that work *by* Steven Babitsky, Esq and James J. Mangraviti, Jr. Esq. Softcover, 8.5" x 11".
Seak Inc., Legal and Medical Information Systems, P.O. Box 729, Falmouth, MA 02541. ; . Publication Date 1997 (Fifth impression 2002). xvi + 197 pages, ISBN 0-9652197-2-0. Price $59.95

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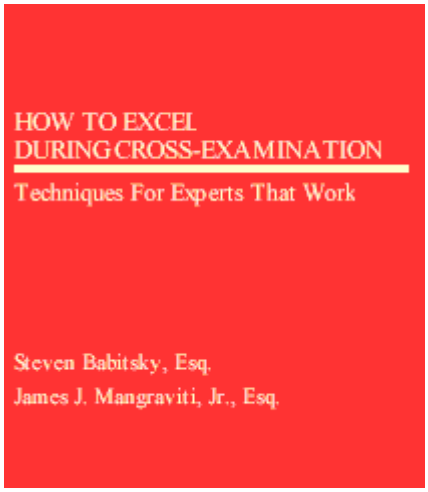


This is the first book in this useful set of three books. This set is aimed at the medical professional, who needs to go to the court and tender medical evidence. Not infrequently, doctors who are very smart in their profession have to face humiliation in courts of law, simply because they do not know how to face cross-examinations. The first book in this set aims to equip doctors for facing the courts.

Steven Babitsky, JD



Steven Babitsky, JD, is the President of SEAK, Inc. He was a personal injury trial attorney for twenty years and is the former managing partner of the firm Kistin, Babitsky, Latimer & Beitman. Mr. Babitsky is the co-author of the texts *How to Excel During Cross-Examination: Techniques for Experts That Work*, and *How to Excel During Depositions: Techniques for Experts That Work*. Attorney Babitsky is the co-developer and trainer for the "*How to Be an Effective Medical Witness*" seminar, the seminar leader for the National Expert Witness and Litigation Seminar, and the scriptwriter for the videos "*How to Be an Effective Medical Witness*" and "*The Expert Medical Deposition: How to Be an Effective and Ethical Witness*."

James J. Mangraviti, Jr., JD



James J. Mangraviti, Jr., JD, has trained hundreds of expert witnesses across the United States and Canada. He is a former trial lawyer with experience in defense and plaintiff personal injury law and insurance law. He currently serves as Vice President and General Counsel of SEAK, Inc. Mr. Mangraviti received his BA degree in mathematics *summa cum laude* from Boston College and his JD degree cum laude from Boston College Law School. His publications include the texts *SEAK Law School for Physicians, Law School for the Safety and Health Professional, The*

*Independent Medical Examination Report: A Step-by-Step Guide with Models*, *The Successful Physician Negotiator: How to Get What You Deserve*, *How to Excel During Cross-Examination: Techniques for Experts That Work*, and *How to Excel During Depositions: Techniques for Experts That Work*.

The main strength of the book is that it attempts to teach by example. Hundreds of actual cross-examinations are given in the book, which the expert can profitably read and learn from.

It often helps the doctor to know the goals of the attorney who cross-examines them. The authors tell this in great detail in this book. We are told for instance, that attorneys cross-examine doctors with three main goals. The first is to lessen the impact of the testimony of the doctor. This is done mainly to discredit him. The second goal is to use the doctor's testimony to support the case of the opposing party. This is quite tricky, but can often be achieved by a shrewd attorney. The third and final goal is to directly attack his opinion.

To achieve these goals, attorneys use a number of techniques. One of the established techniques is to attack the field of expertise of the doctor. This tends to show lack of recognition of the professional field. Sometimes they attack witness' qualifications and at yet other times they may show that the witness is biased. The authors tell us a number of such techniques in this book.

Surely such an advice would be of little use to the doctor, if effective techniques were not told to counter them. The authors do that at length, and offer a number of general rules to follow. The doctors are told - among other things - to maintain the sympathy of the jury and stay within ones' own area of expertise.

There are four very useful appendices at the end of the book. Appendix A gives a complete cross-examination checklist, appendix B gives a number of trick and difficult questions, appendix C gives rules of civil procedure and evidence and appendix D gives an evidentiary flow chart.

It was quite illuminating for me to go through these appendices, which alone should justify the value of this book. Sample these trick and difficult questions from appendix B.

- How many times have you testified in the last five years?
- How many times have you testified on behalf of plaintiffs?
- How many times have you testified on behalf of defendants?
- How much are you being paid for your testimony today?
- Who first contacted you regarding this case?
- What is your fee to date for work on this case?
- You don't have any practical experience in this particular subspecialty, do you?
- Please describe the financial interest you have in the defendant corporation.

View this book on Amazon

These questions can clearly unsettle doctors. Authors not only give a number of such questions, but also clear guidelines on how best to answer them.

In my opinion this book is a must for all doctors, especially those who need to go to courts regularly. I am forensic pathologist, and I believe I will be referring to this book almost always before I go to court.

How to Excel during depositions: Techniques for Experts that work *by* Steven Babitsky, Esq and James J. Mangraviti, Jr. Esq. Hard Bound, 5.5" x 8.5".
Seak Inc., Legal and Medical Information Systems, P.O. Box 729, Falmouth, MA 02541. ; . Publication Date 1999 (Second Impression 2001). xvi + 284 pages, ISBN 1-892904-00-4. Price $59.95

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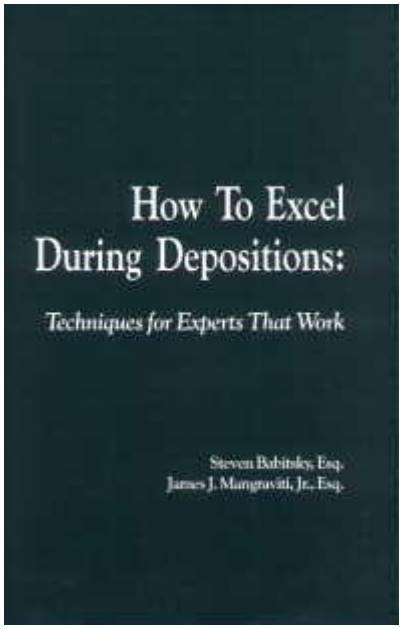


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This - the second book in the series - has been written as a companion to the above book (*How to excel during cross-examination*). As in the earlier book, the authors teach by example, which is an excellent method of imparting instructions. The publisher's blurb on the cover jacket assures us that the vast majority of the material appearing in the book is taken verbatim from actual expert deposition testimony in real cases. Going through the cases, one gets the same impression.

The book attempts to teach us a number of lessons. Among other things, we are told how to deal with abusive attorneys, how to set, bill and collect our fee, how to answer in a truthful, yet artful way, how to effectively prepare for our deposition and how to properly deal with documents and subpoenas.

The book is divided in nine chapters and five appendices. Like the appendices in the above book, the appendices in this book too are very valuable. Appendix B, for instance deals with sample answers to interrogatories, and I spent hours reading them. To me just this appendix justifies the value of the book.

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Chapter three entitled "Preparing for your deposition" offers advice on how best we can prepare our deposition. Several actual examples are given, and at the end of each example the authors show us what went wrong and how best the doctor could have answered those questions. There is a lesson to be learnt from each and the authors explicitly state the lesson learnt after each example. In example 3.3 for instance, the cross-examining attorney inveigles the doctor into admitting that he did spend about 45 minutes behind doors with the attorney who called him, and had a private

conversation with him about the case. This can be very damaging to the doctor's testimony if can't give a reasonable answer as to why he did that. In the "Lesson learnt", section, the authors tell us that this is a common and legitimate area of inquiry and the doctor did a good job in not being evasive or defensive about the meeting. The tricky point of course is how to answer the last question. What was the doctor doing behind closed doors with his counsel? The authors tell us that a reasonably good and truthful answer could be, "We discussed the procedures that will be used, the probably completion time of my testimony, and the probably questions I would be asked."

Throughout the book, the authors maintain the same format. They give a sample question-answer session and then discuss the lessons learnt from the mistakes the doctor did during that session.

This book - like the book above - should be useful to all doctors who need to go to courts often to give medical evidence. This book is going to be a valuable addition to my vast collection of books.

The Comprehensive Forensic Services Manual: The Essential Resources for all Experts *by* Steven Babitsky, Esq and James J. Mangraviti, Jr. JD and Christopher J. Todd, JD. Hard Bound, 7" x 10".
Seak Inc., Legal and Medical Information Systems, P.O. Box 729, Falmouth, MA 02541. ; . Publication Date 2000. xviii + 620 pages, ISBN 1-892904-07-1. Price $124.99

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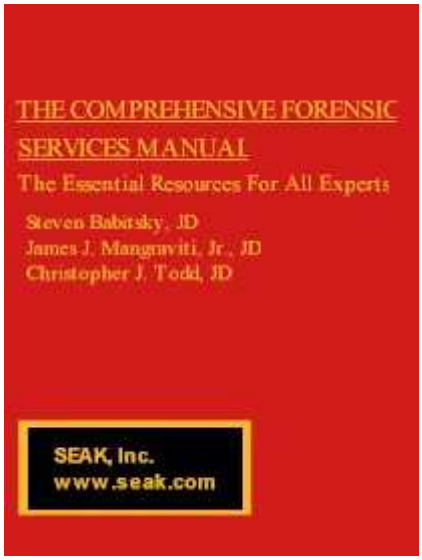


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This is the last book in the series, and this too deals with the various problems doctors face in the courts and how best they can face them.

This is a much larger book than the other two, and attempts to examine the issues in great detail. There are 24 chapters and 25 appendices. The appendices deal with a number of important issues such as deposition transcript, federal rules of evidence, model bills, model CVs, model forensic reports, model marketing letters, referral organizations and so on. I particularly liked appendix N, which gives key internet sites which would be of interest to a person dealing with medicolegal matters. Among the several sites given are (i)Legal Research sites (ii) Legal libraries (iii) Legal journals, magazines and newsletters online (iv) National Bar and Specialty Legal Associations (v) Virtual libraries and (vi) Expert witness directories.

...By and large, this book addresses all the questions, dealt with in the above two books, but in much greater detail. This book must be read after the reader has completed the earlier two, which

would set the stage - so to say - for this book. This book however addresses several new questions too...

The chapters in the book deal with all possible kinds of medicolegal matters. Chapter 2 explains the fundamental elements of a lawsuit, chapter 3 the discovery process and chapter 4, the anatomy of a civil trial.

Several chapters interested me very much. One such chapter was number 7 entitled "Bulletproofing an Expert CV". I read the chapter in great detail and was quite impressed with the several tips the authors give us on how best we can prepare our CV before going to a court of law.

By and large, this book addresses all the questions, dealt with in the above two books, but in much greater detail. This book must be read after the reader has completed the earlier two, which would set the stage - so to say - for this book.

This book however addresses several new questions too. For instance chapter 18 tells us how to market our forensic practice.

I would strongly advise all doctors to read these three books. Those medical practitioners, who need to go to the court often, to tender medical evidence would find these books extremely valuable. Forensic pathologists like me are simply going to love this set.

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