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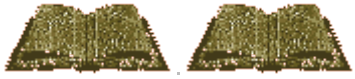

...A MUST FOR ALL EXPERTS ...I always wished for a good book on this subject so every expert could have a look at it before going to the courts. But now Seak Inc. have gone ahead and produced a much better product - a video cassette (also available as a DVD) on this subject. This videotape - through a series of mock questions and answers - teaches the expert, how to give mistake free cross-examination testimony...

Cross-Examination: How to Be an Effective and Ethical Expert Witness *by* Steven Babitsky, Esq. & James J. Mangraviti, Jr. Esq.

Seak Inc., Legal and Medical Information Systems, P.O. Box 729, Falmouth, MA 02541. ; ; . Price $95.00

Official site of this product: Please the linked page (detail.asp?id=43) to visit.

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Cross examination is truly the soul of every medical expert's testimony. It has been described as the greatest legal engine ever invented for the discovery of the truth. But it is also true that most medical experts live in great terror of facing cross examination (many resent even going to court to testify). In my own college, when we send samples of autopsy material to other departments such as pathology and microbiology for specialist examinations/opinions, pat comes the official reply that they are incompetent to do it. When asked in private, they confess, that they didn't do it because they did not want to go to courts and face cross examination. This has always surprised me a little. How could the best of medical experts, who have the best possible medical knowledge, live in perpetual fear of the advocate? Why? Most commonly, it is simply because the expert does not know the rules of the game. The experts are not aware of what it takes to be a good medical witness. A good medical doctor may not necessarily be a good medical witness. Conversely one can be a very good and effective medical witness, without really being a very knowledgeable expert. All it takes is the knowledge of a few simple tactics. As Mangriviti explains in the tape, "the most successful experts are effective during cross examination."

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The tape demonstrates by example and features over 50 lively cross-examination exchanges between lawyer and expert witness.

As I saw the video, I realized, the expert medical witness can learn many facts by going through this video. As Steven Babitsky asks the expert a question and she replies to it, Mangriviti explains the flaws in the expert's answer and how best she could have avoided those flaws. Each such session illustrates one key point and there are more than 50 such sessions in this video/DVD. The jacket cover of the video itself tells us that it will teach us the following things:

View this book on Amazon

- How to prevent the cross-examiner from controlling your testimony,
- How to effectively prepare for cross-examination,
- The questions you will likely be asked on cross-examination,
- How to respond to attempts to paint you as biased,
- How to recognize and defeat the cross examiner s tricks and tactics,
- How to answer in such a way that the jury is not misled,
- Your proper role as an expert - not an advocate,
- How to avoid unnecessarily helping the cross-examiner

Let's see the very first example how Babitsky unsettles an expert as she carelessly answers his questions. The case relates to an expert who was called to attend to one Mr. Johnson in New York, who was having chest pain radiating down the left arm and he was sweating. Quite possibly he had an acute heart attack. The expert made a routine examination and discharged the patient. The patient died within an hour. A case of negligence was brought against the doctor. Steven Babitsky begins by asking:

Babitsky: Doctor, as I understand it, you were called away from your busy practice to see Mr. Johnson in New York for cardiology consult. Is that correct?

Expert: Yes.

Babitsky: How many patients did you leave in the waiting room?

Expert: 10-12

Babitsky: And you wanted to get back to them as quickly as you could. Is that correct?

...I have been testifying in courts for the last 30 years and although I knew most points covered in this tape, it was simply because I have been testifying for so long and I have made so many errors in courts. I learnt the art of facing the cross examination the hard way - from my errors. Had this tape been available to me early in my career, I would certainly have made fewer mistakes in my careers and would have matured much quicker. A must for all experts. Highly recommended...
From here Babitsy weaves a net of simple looking questions and makes the expert admit that she spent very little time with the patient because the case was "simple, routine and easy". Babitsky goes to a board, and writes three words in large letters - SIMPLE, ROUTINE, EASY and DEAD. "Yet", Babitsky continues, "the patient died within one hour of discharge". The expert is completely unsettled by this time. And he gives the final blow by asking this: "Would you discharge the same

patient again if he came with similar complaints?" The expert is completely defeated by now and with a confused look, keeps quiet.

Mangraviti appears on the scene immediately after and explains how lawyers can trap careless experts like this and how best they can avoid such situations. Throughout next one hour, I kept watching the tape completely mesmerized as Babitsky and Mangriviti explain away each point through similar examples.

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Cross examination in criminal cases