

# Week 4

Psychology



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## Tactics to Elicit or Distort Testimony from an Expert Witness Affiliation

### Tactics to Elicit or Distort Testimony from an Expert Witness

During a hearing or deposition, the direction of a case is mostly directed by the testimony of the expert witness. The witness provides the actual facts of a case from a neutral point of view. For this reason, judges or the jury consider the witness as a major source of information. However, an attorney can find pitfalls from the testimony and use them to their advantage. Three ways the testimony can be distorted are by finding pitfalls from previous testimonies, locating pitfalls from in the professional field of the testimony and realize the stand of the witness in regards to the case.

In the first tactic, the expert witness has probably taken part in another case in which they provided testimony. In all testimonies, the attorney may locate an error based on either profession or ethic (Leesfield, 2015). From this mistake, the attorney may undermine the credibility of the witness in proving reliable testimony. For instance, if the expert has ever made an error in providing medical results that has been used in a deposition, the attorney may request the court to disregard the testimony since the witness may not be reliable. To respond to this tactic, the witness may cite the specific causes of mistakes in the previous case that may not influence their decision in their current testimony (Delaney, 2007).

Before the cross examination of an expert witness, an attorney should evaluate the professional qualifications and performance of the witness (Leesfield, 2015) If the attorney locates any weakness in the information, they may use the knowledge during a case. For instance, a medical practitioner may have a prior case on a careless injury caused on a patient. From this information the attorney may cross-examine the witness and

remind them of the incident with the intentional of undermining their reliability of confidence in the case. To curb this tactic, the expert witness should be well informed on previous mistakes and weakness in their professional and train on how to respond to questions that may be asked (Delaney, 2007)

On most occasions, the expert witness may have an allegiance either to the plaintiff or the defendant. The attorney should find this allegiance and any previous relationship between the witness and either of the sides. For instance, if the witness has testified in a case in support of a particular expectation, the attorney may cite a bias on the side of expert witness (Leesfield, 2015). This may distort the testimony of the witness. The expert witness, however, may cite their professional or ethical requirement to support their stand based on the experienced knowledge in their field of expertise (Delaney, 2007).

#### References

- Delaney, K. (2007). Preparing for an Expert Witness Deposition. American Academy of Orthopedic Surgeons. Retrieved from <http://www.aaos.org/news/bulletin/oct07/managing3.asp>
- Leesfield, I. (2015). Tactics for Nailing the Defense Expert. Retrieved from <http://www.leesfield.com/tactics-for-nailing-the-defense-expert.html>