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Expert witnesses – What lawyers look for

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Who is an expert?

- Expert witness in litigation
- Academic qualifications
- Experience
- Research
- Gives relevant evidence not generally available to the public
- Must be an expert in the subject-matter at court



"I know nothing about the subject,
but I'm happy to give you my expert opinion."

Duties of an expert witness

- *Schneider NO and Others v Aspeling and Another*
- Give independent and uninfluenced evidence
- Duty is to the court
- Objective, unbiased opinion which is based on facts or assumptions
 - “an expert is not a hired gun”
- Preliminary report if insufficient information is available
- Do not omit material facts

Two types of expert evidence

1. Evidence based on own independent investigations and observations
2. Evidence based on documents



5 things lawyers look for in an expert

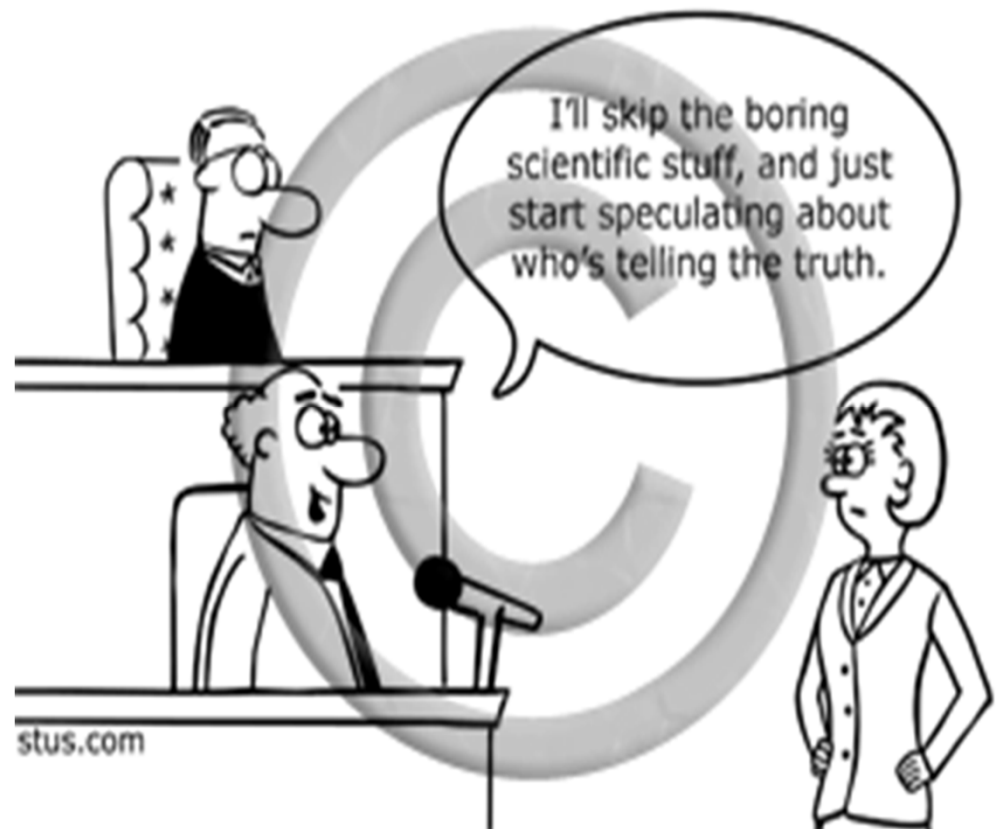
1.

Credibility (good integrity, objectivity, honesty and reputation)

- First attack in witness box – credibility

- Factors

- Candour and demeanour
- Bias, latent or blatant
- Opportunity to consider or observe the facts of case
- Probability of your version of events or conclusion
- Reputation



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2.

Practical experience (expertise)



"I SEE YOU GOT A 74 IN YOUR CHEMISTRY FINAL, AND STILL YOU CALL YOURSELF AN EXPERT WITNESS."

3.

Preparation, Preparation, Preparation



4.

History as an expert



5.
Compatibility



“And finally, Doctor, in your expert medical opinion, is this lump in my armpit anything to be concerned about?”

The report

- www.medicalprotection.org
- A title page including:
 - Date of the report
 - Date of the examination (if any)
 - Identity of the parties to the action
 - Full name (and date of birth) of the patient
 - Party providing the instructions
 - Nature of the report
- Expert's personal details and summary of experience and qualifications
- Statement of the opinion sought and expert's relevant knowledge or experience

The report

An expert's report is put forward to the court in an expert summary, which is prepared by the attorney.

An expert's report must include:

- Methods or reasoning
- Research used
- List of reference works
- Any assumptions or required information
- Conclusion
- Qualifications or reservations



Some tips

- Base opinion on facts, research and experience
- Always tell the truth, be objective and call cases as you see them
- Don't be a hired gun
- Duty is to the court
- Never tailor an opinion
- Reports should be easy to understand
- Be mindful of credibility
- Prepare for cross-examination
- Maintain your opinion
- Don't go beyond the scope of your practice

Questions?

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