Establishing Expertise as an Ethical Expert Witness –

Experts and Lawyers Collaborating to Help Victims

DAUBERT QUESTIONS FOR EXPERT WITNESSES

1. EXPERT QUALIFICATIONS:
   - Name?
   - Address?
   - Occupation?
   - Present employment?
   - Past employment?
   - Educational background?
   - Current professional involvement?
   - Membership in professional societies?
   - Field of expertise?
   - Purpose and nature of consultation?
   - Research?
   - What scientific testing did you undertake?
   - Findings and opinions?
   - Definitions?

2. PROPOSED TESTIMONY IS SUFFICIENTLY TIED TO FACTS OF CASE SO THAT IT WILL AID THE FINDER OF FACT IN RESOLVING A FACTUAL DISPUTE:
   - What does your testimony concern?
   - In your opinion, how does that testimony relate to the nature of this suit (or its underlying issues)?
   - Do you believe the research you have done could have been done by the average lay-person (without your type of education or experience)?
   - Do you consider the research you have done to be decipherable by the average lay-person?
   - Do you feel your testimony will better aid the finder of fact to understanding the work you will present?

3. TESTING OF THE THEORY OR TECHNIQUE (FALSIFIABILITY):
   - What theory/technique did you use in your research?
   - How often do you use this theory/technique?
   - Do you use this theory/technique in other subject areas, or is it unique to the subject matter addressed in this case?
   - How did you test this theory/technique?
Δ Did you use the same testing method every time to test for accuracy?
Δ Did anyone, other than you, test your theory/technique for accuracy?
Δ What test did that person use?
Δ When did that person do his/her testing?
Δ What were the results?

4. EXTENT TO WHICH THE TECHNIQUE RELIES UPON THE SUBJECTIVE INTERPRETATION OF THE EXPERT:

Δ Does the technique you used generally require subjective or objective interpretation among others in the field?
Δ Was the technique used in your research interpreted subjectively or objectively?
Δ Do you feel another person in your field would have interpreted your technique in the same way you have?
Δ Is there a way to cross-check the subjective interpretation for accuracy?
Δ Did such cross-checking take place?
Δ What were the results?

5. WHETHER THE THEORY/TECHNIQUE HAS BEEN SUBJECTED TO PEER REVIEW OR PUBLICATION:

Δ Has your theory/technique been published?
Δ Where was it published?
Δ When was it published?
Δ Were there any criticisms?
Δ What were the nature of the criticisms?
Δ Has your theory/technique been reviewed by your peers?
Δ By whom was it reviewed?
Δ When was it reviewed?
Δ What was their opinion of your technique after having reviewed it?

6. THE THEORY/TECHNIQUE’S KNOWN OR POTENTIAL RATE OF ERROR:

Δ Does your theory/technique have a known or potential rate of error?
Δ What is that rate of error?
Δ How did you arrive at that rate of error?
Δ Is that rate of error common for the theory/technique you used?
Δ Did you carefully consider alternative causes or theories?
Δ What makes yours the best to use or most reliable?
7. **GENERAL ACCEPTANCE OF THE THEORY/TECHNIQUE BY THE RELEVANT SCIENTIFIC COMMUNITY:**

△ Have you used this theory/technique outside the purposes of litigation?
△ In what instances?
△ When?
△ Where?
△ Was the theory/technique used, consistent from those instances until now?
△ Was the theory/technique altered this time because of the litigation?

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[Website](http://www.utexas.edu/research/cswr/iddsa/)

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[Website](http://www.utexas.edu/law/)