

The logo for SEAK, consisting of the letters 'SEAK' in a bold, white, sans-serif font with a horizontal line through the middle of the letters.

The Expert Witness Training Company

Virtual!



EXPERT WITNESS TRAINING

How to Start, Build, and Run a Successful Expert Witness Practice

March 3-5, 2021 (Live via Zoom) or Stream On-Demand

How to Excel at Your Expert Witness Deposition

March 10-12, 2021 (Live via Zoom)

Law for Experts: What You Need to Know to Succeed

Stream On-Demand

Let SEAK show you how to excel and succeed as an expert witness.

Please join us from the comfort of your own home:

- 1. How to Start, Build, and Run a Successful Expert Witness Practice**
SEAK's most popular expert witness training program. **You will be ready to start accepting cases immediately upon completing this course.** (Live via Zoom March 3-5, 2021 or Stream On-Demand)
- 2. How to Excel at Your Expert Witness Deposition**
SEAK's most intensive, in-depth and interactive deposition training. **You will learn how to be markedly more effective at deposition.** (Live via Zoom March 10-12, 2021)
- 3. Law for Experts: What You Need to Know to Succeed**
Provides you with a practical understanding of law, procedure and terminology. **You will learn numerous techniques to be more effective and successful as an expert witness.** (Stream On-Demand)



The Expert Witness Training Company

About SEAK, Inc.

SEAK, Inc. is The Expert Witness Training Company. We have trained thousands upon thousands of expert witnesses and publish numerous texts and practice aids for expert witnesses. SEAK's *Expert Witness Directory* is the #1 rated Expert Witness Directory. For more information, please visit www.TestifyingTraining.com and www.seakexperts.com.

Questions About SEAK's Virtual 2021 Expert Witness Training?

If you have any questions about our upcoming SEAK Expert Witness Training feel free to contact SEAK's Principal James J. Mangraviti Jr., Esq at 978-276-1234 or Jim@seak.com.

TO REGISTER VISIT WWW.SEAK.COM OR CALL 508-457-1111

How to Start, Build, and Run a Successful Expert Witness Practice

Live via Zoom March 3–5, 2021

Also
Available to
Stream On-
Demand!

Excellent and ethical legal consultants can easily double their income by devoting one day a week to expert witnessing. Time spent by experts on such matters is commonly billed out at \$250–\$500 or more per hour. **How to Start, Build, and Run a Successful Expert Witness Practice** is an intensive, content rich workshop that is designed to show you how to start, build, and run a successful expert witness practice. This course is appropriate for professionals with all levels of legal-consulting experience including prospective and novice expert witnesses. Attendees will learn from an experienced faculty in a step-by-step fashion how to start, build, and run a successful and ethical expert witness practice. **This is SEAK's most popular expert witness training program. New experts should be able to start accepting cases immediately upon completion of the course.**

Learning Objectives: At the completion of this course you will learn:

- The role of expert witnesses in civil litigation,
- What attorneys are looking for from their experts,
- How to properly define your area(s) of expertise and practice areas,
- How to draft a curriculum vitae appropriate for expert witness work,
- How to get cases,
- How to avoid ethical problems and maintain your integrity,
- The essentials of expert witness report writing,
- How to set your fee and collect it,
- What to bill for and when,
- How to draft a retention agreement to protect your rights,
- How to form defensible opinions,
- Techniques for maintaining your independence and objectivity,
- How to exceed expectations,
- How to build a tremendous reputation,
- Ethics,
- Expert witness risk management techniques, and
- Much, much more.

TUITION/DISCOUNTS: To register, please visit www.seak.com or call 508-457-1111. Tuition is \$1,295 on or before January 15, 2021; \$1,395 January 16, 2021–February 16, 2021 and \$1,495 after February 16, 2021. Your tuition includes a detailed conference manual. Group discounts are available for two or more persons registering together from the same employer. Discount prices depend on the size of the group. Our programs can also be brought onsite to your organization either virtually or in-person. Please call 508-457-1111. **A special 50% conference discount is available on all new and renewal standard listings in the SEAK Expert Witness Directory placed by attendees during the seminar. THIS COURSE IS ALSO AVAILABLE TO STREAM ON-DEMAND, VISIT SEAK.COM.**

Cancellations: Conference cancellations received in writing on or before February 16, 2021 will receive a full refund. Conference cancellations received after February 16, 2021 will receive a full tuition credit.

Continuing Education Credits: Note: **If your specialty does not appear below and you desire credits, please contact Karen Cerbarano (781-826-4974 or Karen@seak.com).** We can often obtain desired credits upon request, but unfortunately, obtaining some types of credits are not feasible. Please register early, as we can only apply for credits after your registration form has been received and it can take time to get the requested approvals back from the accrediting agencies. **Accident Reconstructionists:** SEAK will apply for credits through ACTAR upon written request at the time of registration. **Accountants:** State boards of accountancy have final authority on the acceptance of individual courses for CPE credit. SEAK will provide each attendee with a certificate of attendance. **Appraisers:** Credits from The American Society of Appraisers will be applied for on written request at the time of registration. **Attorneys:** Credit varies by state. Continuing legal education credits for attorneys will be applied for if requested in writing at the time of registration. **Chiropractors:** Credits are unfortunately not available. **Engineers:** 14 PDHs. The acceptance of this course is dependent upon your state(s) of registration. The vast majority of states do not require preapproval of either courses or course sponsors. **Life Care Planners:** SEAK will apply for credits through The Commission on Health Care Certification (CHCC) upon written request at the time of registration. **Nurses:** Unfortunately contact hours are not available. **Physicians:** SEAK, Inc. is accredited by the Accreditation Council for Continuing Medical Education to provide continuing medical education for physicians. SEAK, Inc. designates this live activity for a maximum of 14 AMA PRA Category 1 Credit(s)[™]. Physicians should claim only the credit commensurate with the extent of their participation in the activity. **Psychologists:** Unfortunately continuing education credits are not available for psychologists. **NOTE: SEAK does not accept commercial support for its programs and does not use faculty members with conflicts of interest.**

Faculty:



Chip Darius, OHS, CIT, CSHO, is an OSHA / Safety Consultant and Trainer with many years' experience serving clients in general industry, construction, utilities and emergency services. In addition to his consulting and training business, Mr. Darius is an Instructor for the OSHA Training Institute Region 1 Education Center, where he has been teaching courses on OSHA regulations for nearly two decades. Mr. Darius is a well experienced Forensic Expert Witness and Litigation Consultant in catastrophic injury, fatality and personal injury matters. He has experience in both plaintiff and defense cases, in state and federal matters. He has significant testimony experience in depositions and at trials. Mr. Darius has conducted training at international, national, regional, state and local conferences and seminars. He earned BS and MA degrees from the University of Connecticut. Mr. Darius has also been a certified Emergency Medical Technician for 40 years.



James J. Mangraviti, Jr., Esq., has trained thousands of expert witnesses through seminars, conferences, corporate training, training for professional societies, one-on-one training/mentoring, and training for governmental agencies including the FBI, IRS, NYPD, SEC, Secret Service, and Department of Defense. He currently serves as Principal of The Expert Witness Training Company SEAK, Inc. (www.testifyingtraining.com). Jim is the co-author of thirty books, including: *How to Be an Effective Expert Witness at Deposition and Trial*; *How to Be a Successful Expert Witness: SEAK's A-Z Guide to Expert Witnessing*; and *How to Write an Expert Witness Report*. **Jim can be reached at 978-276-1234 or jim@seak.com.**



Kelly J. Wilbur, Esq., joined SEAK in 2020 as Assistant Vice President/Associate Consultant. Prior to joining SEAK, she practiced for five years as a litigator. She specialized in personal injury defense and tried several cases in Massachusetts. Kelly received her J.D., *cum laude*, from the University of Massachusetts School of Law in 2015 and graduated from St. Mary's College of Maryland with a B.A. in Political Science. Kelly has experience preparing experts for deposition and trial testimony. **She can be reached at 781-491-6802 or kelly@seak.com.**

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How to Start, Build, and Run a Successful Expert Witness Practice

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DAY ONE: WEDNESDAY, MARCH 3, 2021 (Live via zoom)

12:00–12:30 PM ET The Role of Expert Witnesses in Civil Litigation

Attendees will learn the proper role of expert witnesses in civil litigation. Included is an explanation of Federal Rule of Evidence 702 and the types of specific assignments experts can expect from retaining counsel including forensic consulting, report writing, and where necessary, testifying at deposition or trial. **Questions and Answers**

12:30–1:30 PM ET What Successful Expert Witnesses Have in Common

Faculty and the attendees will analyze what some of the nation's "go to" experts have in common and how they got to their position of prominence. Video recorded interviews of the experts will be reviewed. Lessons for the attendees will be drawn from these examples. **Questions and Answers**

1:30–2:30 PM ET Finding and Developing Your Niche in the Expert Witness Marketplace

Faculty will explain the advantages of identifying a niche for yourself. Attendees will be provided with a protocol for researching their niche, determining the proper fit and developing their niche to its fullest potential. **Questions and Answers**

2:30–2:40 PM ET BREAK

2:40–4:00 PM ET Pulling Together a CV Appropriate for Expert Witness Work

Anyone considering starting an expert witness practice needs to maintain a CV. Attendees will learn the importance of an accurate, up-to-date CV, what should and should not be on a CV, and how mistakes in preparing CVs can damage or destroy an expert's credibility. Sample CVs will be provided. **Questions and Answers**

4:00–4:10 PM ET BREAK

4:10–5:00 PM ET Bulletproofing Yourself – Your Qualifications, Marketing Activities, Website, Image & Reputation

A mock trial demonstration followed by bottom line bullet point advice with numerous examples on how to avoid potentially devastating problems in an expert's qualifications, marketing activities, website, image and reputation. **Questions and Answers**

DAY TWO: THURSDAY, MARCH 4, 2021 (Live via zoom)

12:00–12:30 PM ET Bulletproofing Your Opinions – Passing the *Daubert* Tests, Your Methodology

An in-depth discussion of the legal requirements of *Daubert* and FRE 702 as they relate to how an expert forms and expresses his/her opinion(s) and the admissibility of the opinions. Numerous examples will be discussed. The lecture continues with practical advice on how to avoid being caught in a *Daubert* nightmare and how to use the *Daubert* criteria as a roadmap to bolster the persuasiveness of any opinion. **Questions and Answers**

12:30–1:15 PM ET Bulletproofing Your Opinions – Research, Investigation, Chart Review and Examination

An expert witness's opinion will only be as strong as the facts, research and investigation upon which it is based. Attendees will learn how to conduct an investigation, perform research and collect data in a manner that bolsters an expert's opinion. **Questions and Answers**

1:15–1:45 PM ET Bulletproofing Your Opinions – Managing the Potentially Damaging Influence of Retaining Counsel

Expert Witnesses often severely damage or destroy the persuasiveness of their opinions by allowing retaining counsel to influence (or appear to influence) their investigation, assumptions, and opinions. In this segment attendees will learn how to insulate their opinions from the appearance of being under the influence of retaining counsel, for example through the information the expert witness relies upon, the modification of draft and preliminary opinions, and through the communications between the expert witness and retaining counsel. **Questions and Answers**

1:45–2:00 PM ET Bulletproofing Your Opinions – Rebuttals and Commenting On Other Experts

Commenting on another expert's opinions is an area that gets many experts into unnecessary difficulty. In this segment experts will learn the right way and wrong way to comment on another expert's opinions. **Questions and Answers**

2:00–2:10 PM ET BREAK

2:10–3:10 PM ET Best Practices in Forensic Office Management

Attendees will learn myriad techniques that will help them run an efficient and successful litigation support consulting practice. These include optimum new case intake procedures, billing systems, document receipt and retention policies, support staff training and instruction, file maintenance, trial scheduling, procedures for keeping your CV up-to-date, how to account for all time spent on the case, responsibilities and boundaries, security and confidentiality protocols and developing and using forms, templates and checklists. **Questions and Answers**

"Jim, What an excellent course! Like drinking from a firehose. Time to reflect and put it all together. Thanks so much."

"Jim, I enjoyed the seminar. Your illustrative stories, case reports and sense of humor made it go by quickly. I have already begun updating my CV and website using what I learned. I look forward to the next one."

"A 'must attend' for anyone interested in this line of work"

"Fantastic. Far exceeded my expectations."

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3:10–4:10 PM ET Best Practices in Dealing with Counsel

A frank discussion of how to best deal with retaining and opposing counsel. Included is an explanation of the importance of maintaining boundaries, how to best communicate with retaining counsel, the importance of not giving away your theories or reviewing any confidential information until you have been retained, how to deal with non-responsive or incompetent lawyers, how to deal with failure to prepare you for deposition or trial, being pushed beyond your true area of expertise, how to handle “rush” requests for reports and opinions and how to avoid problems before they materialize.

Questions and Answers

4:10–4:20 PM ET BREAK

4:20–5:00 PM ET Best Practices in Report Writing

Faculty will review the most efficient methods for dealing with requests for preliminary, draft, and other written reports. Best practices for responding to input from counsel, formatting, editing, controls over release of the report, signing, and proofreading will be provided. There will also be an in-depth discussion on the use and misuse of computer templates to assist in report writing. A sample expert witness report will be provided. **Questions and Answers**

DAY THREE: FRIDAY, MARCH 5, 2021 (Live via zoom)

12:00–12:20 PM ET Best Practices in Report Writing (Continued)

12:20–1:00 PM ET Deposition Best Practices

Attendees will be provided with an in-depth look at scheduling, billing, postponements, cancellations, errata sheets, and retention/destruction of deposition transcripts. A list of expected areas of inquiry will be provided. **Questions and Answers**

1:00–1:50 PM ET Trial Best Practices

Attendees will learn more than twenty techniques to help them prepare for trial. These techniques deal with issues which include dress, logistics, travel, scheduling, payment, and visual aids. **Questions and Answers**

1:50–2:00 PM ET BREAK

2:00–3:00 PM ET Best Practices in Fee Setting, Fee Schedules & Agreements, Billings and Collections

Experts will learn how to correctly value their time and set their fee. They will be taught the importance of not undercharging and how to determine exactly what their time is worth. Also included is a detailed discussion of the amount and frequency of retainers, whether retainers should be non-refundable, cancellation fees, expense reimbursement and proven techniques to improve collections of expert witness and consulting fees. Attendees will be provided with sample expert witness retention contract language that addresses 15 common problems faced by expert witnesses. **Questions and Answers**

3:00–3:10 PM ET BREAK

3:10–4:10 PM ET Advanced Marketing Techniques for Building an Expert Witness Practice

Faculty and attendees will engage in a frank discussion and analysis of the utility of: search engine optimization, social media, networking, writing articles, speaking, directory listings, fees, advertising, referral services/brokers and 24-7 marketing. **Questions and Answers**

4:10–4:45 PM ET Ethics and Risk Management

Experts will learn how to deal with common ethical problems and will learn the potential civil and professional liability of experts. Numerous specific risk management techniques for experts will be explained including avoidance, maintaining the appropriate insurance coverages, due diligence, confidentiality protocols, anti-spoilation procedures, avoiding conflicts and the overriding importance of being 100% honest. **Questions and Answers**

4:45–5:00 PM ET Conclusion and Takeaways

Concluding remarks will be preceded by an attendee and faculty generated numbered list of action steps and takeaways from the covered material that attendees will be taking home to their practices to start, build, and run a better and more successful expert witness practice. **Questions and Answers**

“Impressive”

“Outstanding – reality based presentation of “those things to be expected”. For me (in law enforcement) the principles reinforced.”

“A useful combination of stories from the front lines & practical advice.”

“The CV/resume exam segment was very useful. Like many in the audience, I will be working to improve mine!!”

“Pearls of wisdom/experience [were] freely shared by presenters. I especially liked them saying what rate they recommend each type of expert charge (i.e. surgeon vs. engineer).”

“One of the most practical seminars that I’ve attended”

“Loaded with powerful information”

“Thanks, Jim. You [and Chip] were both enjoyable and informative. I especially appreciate the feedback on my first written report.”

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How to Excel at Your Expert Witness Deposition

March 10–12, 2021 (Live via Zoom)

How to Excel at Your Expert Witness Deposition is SEAK's most intensive deposition training seminar. It is designed to help expert witnesses to markedly improve their deposition skills. **How to Excel at Your Expert Witness Deposition** is fast moving and content rich. The course is taught using five methodologies: lecture, interactive exercises, videos of experts testifying in real cases, mock deposition demonstrations, and questions and answers. This is a hands on course. All attendees will have the opportunity to practice their deposition skills through in class exercises and to receive feedback from the faculty.

After completing this interactive training you will be able to:

- Demonstrate improved active listening skills.
- Deliver powerful, bullet point responses.
- Answer questions truthfully while leaving yourself some flexibility.
- Employ numerous proven strategies to excel at deposition.
- Recognize and defeat opposing counsel's tactics.
- Excel at answering trick questions.
- Articulately answer questions regarding your qualifications, fees, biases, opinions, methodology, and report.
- Effectively deal with skeletons in your closet.
- Better handle abusive questioning.
- Prepare an individualized protocol to excel at expert witness depositions.

TUITION/DISCOUNTS: To register, please visit www.seak.com or call 508-457-1111. Tuition is \$1,295 on or before January 15, 2021; \$1,395 January 16, 2021–February 16, 2021 and \$1,495 after February 16, 2021. Your tuition includes a detailed conference manual. Group discounts are available for two or more persons registering together from the same employer. Discount prices depend on the size of the group. Our programs can also be brought onsite to your organization either virtually or in-person. Please call 508-457-1111. **A special 50% conference discount is available on all new and renewal standard listings in the SEAK Expert Witness Directory placed by attendees during the seminar.**

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Nadine Nasser Donovan, Esq., is a former trial lawyer with extensive litigation experience. She is SEAK's lead trainer and consultant, and has been on the SEAK Faculty since 2002, having trained hundreds of experts via SEAK's scheduled courses, customized on site expert witness training programs, and one-on-one consulting. Nadine is the co-author of the SEAK texts, *How to Be an Effective Expert Witness at Deposition and Trial: The SEAK Guide to Testifying as an Expert Witness*; *How to Write an Expert Witness Report* and *How to Be a Successful Expert Witness: SEAK's A-Z Guide to Expert Witnessing*. She is licensed to practice law in New York, Massachusetts, and Rhode Island. In addition, Nadine is a Legal Writing Instructor at Boston University School of Law. Nadine also serves as a Dispute Resolution Arbitrator for the Financial Industry Regulatory Authority. Nadine previously practiced litigation for 21 years. She spent 18 years in the defense of medical professionals in medical malpractice actions and before medical licensing boards. Nadine started off her legal career in New York City, first as a prosecutor in Queens, and then as counsel for the City of New York. Nadine received her J.D. *cum laude* from Boston College Law School. She graduated from Fordham University *summa cum laude* with a B.A. in French Literature. **She can be contacted at 617-791-4282 or nadine@seak.com.**



Kelly J. Wilbur, Esq. joined SEAK in 2020 as Assistant Vice President/Associate Consultant. Prior to joining SEAK, she practiced for five years as a litigator. She specialized in personal injury defense and tried several cases in Massachusetts. Kelly received her J.D., *cum laude*, from the University of Massachusetts School of Law in 2015 and graduated from St. Mary's College of Maryland with a B.A. in Political Science. Kelly has experience preparing experts for deposition and trial testimony. **She can be reached at 781-491-6802 or kelly@seak.com.**

"Absolutely great seminar. Learned quite a bit (even after having been deposed > 600 times over 35 years)."

"Thank you so much for your wonderful conference this weekend! I learned so much and look forward to taking another SEAK conference!"

"It was highly informative, I learned a lot, phenomenal."

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How to Excel at Your Expert Witness Deposition

March 10–12, 2021 (Live via Zoom)

DAY 1: WEDNESDAY, MARCH 10, 2021 (Live via Zoom)

PART I: LAW, STRATEGY & SKILLS

12:00–12:45 PM ET Law and Procedure

Attendees will learn the key legal principles and rules which govern depositions including what questions can be asked, the legal basis and limits of “fishing expeditions,” applicability and limits of claims of privilege, meaning and effect of “off the record,” meaning and effect of “the standard stipulations,” discoverability of expert-retaining counsel communication, time limits, limitations on questioning because of abusive intent, harassment, or undue burden, admissibility of deposition questions at trial, reading and signing, and protective orders. **Questions and Answers Learning Objective:** *Explain the law and procedure governing expert witness depositions.*

12:45–1:30 PM ET Understanding Opposing Counsel's Strategies and Goals

Excelling at deposition requires an appreciation of opposing counsel's likely strategies. Attendees will learn why opposing counsel will likely ask open ended questions and may interrogate the witness in a non-confrontational manner designed to keep the witness talking. Attendees will also learn the numerous likely goals of retaining counsel and will be provided with suggestions for dealing with each of these. These likely goals include learning the expert's opinions, learning the expert's qualifications, locking down the expert, sizing up the expert as a witness, probing for bias, discovering the expert's factual assumptions, gathering as much information as possible, using the expert to help his own case, intimidating the expert, learning what the expert did, and setting the stage to later get the expert or the expert's opinion excluded. In addition, the faculty will discuss the strategies of retaining counsel at deposition including objections and questioning of their own expert. **Questions and Answers Learning Objective:** *List the strategies and goals of opposing counsel.*

1:30–2:15 PM ET How to Improve Your Active Listening Skills

Excelling at deposition requires superior active listening skills. Deponents should be able to recognize and recall every word of a question and should be able to repeat back questions asked of them verbatim. In this segment attendees will be shown how to improve their active listening skills using techniques such as picturing the question as if it were written on a white board. The group will conduct interactive exercises to assess, practice and improve their active listening skills. **Questions and Answers Learning Objective:** *Describe techniques for improving active listening.*

2:15–2:25 PM ET BREAK

2:25–3:05 PM ET How to Leave Yourself Wiggle Room

A fundamental technique for truthfully and artfully answering deposition questions is to do so in a manner, where appropriate, that does not leave the witness 100% boxed in and locked down. In this segment attendees will learn how to recognize and truthfully respond to lock down questions in a way that leaves the expert some flexibility, but does not make the expert sound evasive or defensive. The group will conduct interactive exercises to assess, practice and improve their responses to lock down questions.

Questions and Answers Learning Objective: *List techniques for recognizing and truthfully and artfully answering lock down questions.*

3:05–3:50 PM ET Deposition Strategies for Expert Witnesses

Attendees will learn forty-seven techniques for excelling at their deposition. These include telling the whole truth, listening carefully to objections, insisting on finishing answers, not exaggerating, speculating, or guessing, avoiding arguing, not showing weakness, following a question answering protocol, staying calm, avoiding absolute words, avoiding rambling by putting a period on the answer, recognition of unintelligible questions, breaking counsel's momentum, staying in your sandbox, using time limits to your advantage, and encouraging opposing counsel to lose his cool. Many of these techniques will be demonstrated by short videos and interactive exercises. **Questions and Answers Learning Objective:** *List techniques for excelling at your deposition.*

3:50–4:00 PM ET BREAK

4:00–5:00 PM ET Deposition Strategies for Expert Witnesses (Continued)

DAY 2: THURSDAY, MARCH 11, 2021 (Live via Zoom)

PART II: CORE AREAS OF INQUIRY

12:00–1:00 PM ET Qualifications

Expert witnesses should expect probing questions regarding why specifically they are qualified to opine in the case. Failure to excel in this area can lead to the expert being excluded from testifying – which can be a career ending event. Attendees will learn techniques for answering expected questions about their qualifications. Issues covered include articulating relevant experience and education and how these apply to the case at hand, dealing with missing or sub optimum levels of experience or credentials, CV issues, “have you ever done?” questions, number of similar cases, and recognizing what you are not an expert in. Many of these lines of inquiry will be demonstrated by short videos and will be practiced by the attendees through interactive exercises.

Questions and Answers Learning Objective: *Describe techniques for answering qualifications questions.*

1:00–1:45 PM ET Bias and Fees

The more opposing counsel can establish an expert as being biased, the less believable that expert will be. Attendees will learn techniques for answering expected questions about their bias and fees. Issues covered include fee questions, plaintiff v. defendant issues, long held beliefs, billings to date, bills, prior writings, prior testimony, association with outside groups, political beliefs, opinion always the same in every case, influence of retaining counsel, and percentage of income questions. Many of these lines of inquiry will be demonstrated by short videos and will be practiced by the attendees through interactive exercises.

Questions and Answers Learning Objective: *Explain methods for answering bias and fees questions.*

1:45–1:55 PM ET BREAK

1:55–3:00 PM ET Opinions

Expert witnesses are retained to provide opinions and must be able to articulate these opinions persuasively at deposition. Attendees will learn techniques for answering expected questions about their opinions. Issues covered include what the expert will and will not be testifying to, degree of flexibility in opinions, areas of agreement with opposing expert, new/additional opinions, degree of certainty, and rationale for opinions. Many of these lines of inquiry will be demonstrated by short videos and will be practiced by the attendees through interactive exercises.

Questions and Answers Learning Objective: *Describe strategies for responding to questions about your opinions.*

3:00–3:45 PM ET Methodology

Opposing counsel may use the deposition to set the expert witness up for a later motion to exclude under Daubert. If the expert is so excluded this can often be a career ending occurrence. Attendees will learn techniques for answering expected questions about their methodology. Issues covered include how the expert's theory was tested, where the theory was subjected to peer review and publication, known or potential error rate, standards and controls, general acceptance in field, evidence of level of care, why extrapolation was justified, alternative explanations, and basis of research. Many of these lines of inquiry will be demonstrated by short videos and will be practiced by the attendees through interactive exercises.

Questions and Answers Learning Objective: *Explain techniques to protect yourself from being set up for a Daubert challenge.*

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How to Excel at Your Expert Witness Deposition

March 10–12, 2021 (Live via Zoom)

3:45–3:55 PM ET BREAK

3:55–4:25 PM ET Your Expert Witness Report

In many if not most cases an expert witness will have submitted a written report prior to deposition. The expert witness's report will often raise numerous potential issues at deposition. Attendees will learn techniques for answering expected questions about their reports. Issues covered include who helped write the report, drafts/preliminary reports, research, footnotes or lack thereof, and mistakes/typos. Many of these lines of inquiry will be demonstrated by short videos and will be practiced by the attendees through interactive exercises. **Questions and Answers Learning Objective:** Describe strategies for answering questions about your report.

4:25–5:00 PM ET Facts/Bases of Opinions

An expert witness's opinions are only as strong as what these opinions are based on. Expert witnesses can expect to be questioned closely regarding the bases of their opinions. Attendees will learn techniques for answering expected questions about the basis of their opinions. Issues covered include key facts of the case, assumptions, documentation, existence and extent of firsthand inspection, what was not done, cherry picking, interviews, veracity judgments, investigation, reliance on staff and/or other experts, timeline, and hypothetical questions. Many of these lines of inquiry will be demonstrated by short videos and will be practiced by the attendees through interactive exercises. **Questions and Answers Learning Objective:** List the key facts that you will likely be asked about at deposition.

DAY 3: FRIDAY, MARCH 12, 2021 (Live via Zoom)

12:00–12:30 PM ET Opposing Expert

An expert witness can expect numerous questions concerning the opposing expert and the opposing expert's opinions. Attendees will learn techniques for answering expected questions about opposing experts. Issues covered include qualifications, methodology, areas of agreement, and reasons for disagreement. Many of these lines of inquiry will be demonstrated by short videos and will be practiced by the attendees through interactive exercises. **Questions and Answers Learning Objective:** List techniques for responding to questions about opposing expert and opposing expert's opinions.

PART III: SPECIAL SITUATIONS

12:30–1:00 PM ET Giving a Deposition in a Case Where You Didn't Write a Report

It is becoming increasingly common for expert witnesses in state courts to be asked not to write a report. In this segment the faculty will offer practical advice regarding resulting issues such as, how to prepare for a deposition where you did not write a report, discussing with retaining counsel potentially drafting a simple list of opinions with reasons, and special techniques to prepare for a deposition in cases where a report was not written. **Questions and Answers Learning Objective:** Discuss options to excel at depositions in cases where no report was written.

1:00–1:30 PM ET Dealing with Skeletons in Your Closet

Some experts are concerned about being asked about things in their past that they rather not talk about. In many cases questions in this area may be inappropriate. In further instances, questions about skeletons in the closet may be permissible at deposition, but would probably not be admissible at trial. In this segment the faculty will explain what is and is not likely to be a problem and how to deal with common issues such as being sued, disciplinary problems, being terminated, failing tests, mediocre or worse grades, health issues, private life, divorces, bankruptcy, arrests, convictions, etc. Each attendee will be afforded the opportunity to anonymously submit to the faculty for review, comment, and advice any issues which they may be concerned with in their own backgrounds. **Questions and Answers Learning Objective:** Explain techniques for dealing with skeletons in your closet.

1:30–2:00 PM ET Abusive Questioning

Experts may at some point experience questioning that is abusive and beyond the scope of what is legally permissible. Faculty will review the legal rules dealing with abusive questioning and provide practical advice for determining what is and is not abuse and how to deal with abusive questioning. **Questions and Answers Learning Objective:** Describe strategies for dealing with abusive questioning.

2:00–2:10 PM ET BREAK

2:10–2:30 PM ET Video Depositions

More and more expert witness depositions are recorded on video. These video depositions present additional challenges for the expert. In this segment the faculty will provide suggestions for excelling during a deposition that is recorded on video. Demonstrations will be conducted to provide feedback to how attendees look while being deposed. In addition, the attendees will be shown video clips of actual depositions to exemplify the issues that can occur with video depositions. **Questions and Answers Learning Objective:** Describe strategies for excelling during video depositions.

PART IV: TACTICS AND DEFENSES

2:30–3:30 PM ET Recognizing and Defeating Opposing Counsel's Deposition Tactics

The faculty will explain numerous tactics that opposing counsel may use against the expert. Many of these tactics will be demonstrated by showing videos of actual depositions or by interactive exercises using volunteer attendees. The faculty will provide suggestions for dealing with each of the tactics. Tactics covered include going for the jugular off the bat, wearing the deponent down, intimidation, fishing for contradictions, catchalls, magic words, hypotheticals, mischaracterizations, and authoritative treatises. **Questions and Answers Learning Objective:** Identify opposing counsel's deposition tactics and explain strategies for defeating each tactic.

3:30–3:40 PM ET BREAK

3:40–4:30 PM ET Trick and Difficult Questions

The faculty will demonstrate, utilizing questions submitted by the attendees, numerous trick and difficult questions. The goal is to practice the techniques learned in the class such as active listening, refusal to be 100% locked down, and defeating counsel's tactics. The answers provided by volunteer attendees will be critiqued and possible better answers will be provided. **Questions and Answers Learning Objective:** Describe a protocol for answering trick and difficult deposition questions.

PART V: PREPARATION

4:30–5:00 PM ET Expert Witness Deposition Preparation Protocol

Success at deposition is far more a function of preparation, rather than inspiration. In this segment the faculty will provide suggestions for how to develop a protocol for proper preparations. Issues covered include, identifying issues of potential vulnerability, what to ask retaining counsel to do to prepare you, dealing with a refusal by retaining counsel to prepare you, getting your facts and files in order, how to review your file, what to know cold, and preparing headline-bullet point responses to key anticipated questions. **Questions and Answers Learning Objective:** Explain a protocol for diligently preparing for an expert witness deposition.

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- How lawyers exclude expert testimony and what you can do to prevent being excluded;
- What lawyers can and cannot ask you at deposition and trial, and why;
- The law of negligence, contracts, and damages, which are the areas of civil law that most commonly use expert testimony;
- The ins and outs of how a lawsuit works and the ethical and other rules the attorneys must follow;
- The anatomy of a civil trial;
- The rules associated with depositions including fees, length, scope, instructions not to answer, etc.; and
- Issues that give rise to expert witness liability and risk management strategies for experts.

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Faculty:



Nadine Nasser Donovan, Esq., is a former trial lawyer with extensive litigation experience. She is SEAK's lead trainer and has been on the SEAK Faculty since 2002, having trained countless experts via SEAK's scheduled courses, customized on site expert witness training programs, and one-on-one consulting. Nadine is the co-author of the SEAK texts, *How to Be an Effective Expert Witness at Deposition and Trial: The SEAK Guide to Testifying as an Expert Witness*; *How to Write an Expert Witness Report* and *How to Be a Successful Expert Witness: SEAK's A-Z Guide to Expert Witnessing*. She is licensed to practice law in New York, Massachusetts, and Rhode Island.

In addition, Nadine is a Legal Writing Instructor at Boston University School of Law. Nadine also serves as a Dispute Resolution Arbitrator for the Financial Industry Regulatory Authority. Nadine previously practiced litigation for 21 years. She spent 18 years in the defense of medical professionals in medical malpractice actions and before medical licensing boards. Nadine started off her legal career in New York City, first as a prosecutor in Queens, and then as counsel for the City of New York. Nadine received her J.D. *cum laude* from Boston College Law School. She graduated from Fordham University, *summa cum laude*, with a B.A. in French Literature. **Nadine can be contacted at 617-791-4282 or nadine@seak.com.**

“The program was extremely valuable for context and perspective on our litigated assignments.”

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You will learn how the legal system you are supporting really works. Faculty will discuss the relationship between state and federal constitutional law, statutory and administrative law, state and local law, and common law. Attendees will also learn how appeals work and how administrative law disputes are adjudicated. Experts will also gain a working understanding of preemption, binding authority, persuasive authority, and how to distinguish case law.

Thinking Like a Lawyer, Part I - Elements of a Cause of Action

You will learn how to “think like a lawyer” by breaking down a potential cause of action into its component elements. The faculty will explain how important it is for experts to understand how he/she fits into retaining lawyer’s case and which elements of a cause of action the expert is and is not opining on.

Thinking Like a Lawyer, Part II - Affirmative Defenses

You will learn how lawyers are taught to defend against causes of action that can otherwise be successfully proven by the plaintiff. You will learn how some of the most common and important of these defenses work and how these defenses are relevant to their role as an expert witness in a case, including statutes of limitations, contributory and comparative negligence, assumption of the risk, workers’ compensation exclusivity, charitable immunity, and sovereign immunity.

The Law of Negligence

Experts are often retained for cases alleging negligence. In addition, experts can be subjected to claims for negligence stemming from their work as an expert or other professional and personal activities. In this section, you will learn the four elements of negligence, the expert’s role in proving, defending, and mitigating negligence claims, and why attorneys in negligence cases often need the opinions of several expert witnesses.

Damages, Valuing Cases, and the Economics of a Lawsuit

Proving or defeating a claim of damages is critical to the success of a case, and lawyers often call upon expert witnesses to assist in this regard. In this section, you will learn the types of permissible damages allowed under tort and contract law, including compensatory damages, medical and emotional damages, economic damages, expectation damages, consequential damages, future damages (including future lost wages and future lost earnings and sales projections), and punitive damages. You will also learn how a lawyer uses the measure of damages to value cases. We will discuss how attendees can add value to these cases and recognize and seek out the highest value cases such that they can charge a premium amount for their expert services and take the time necessary to do their highest-level work.

Anatomy of a Lawsuit

You will learn what actually happens behind the scenes in a lawsuit and why it happens. This insight is extremely helpful to the expert witness in understanding counsel’s expectations, as well as the timing, context, and meaning of the expert witness’ participation in the case. Included will be a discussion of complaints, answers, affirmative defenses, discovery motions, summary judgment, motions to dismiss, remedies, and appeals.

Liability Insurance

Insurance has a huge effect on how many types of litigation are conducted and resolved. Expert witnesses need a working knowledge of how liability insurance works in the context of a lawsuit. Such knowledge will assist the expert in his work as an expert witness, and also in his own personal and professional risk management. Specific topics covered in this section include how to read and understand an insurance policy, the meaning of key clauses in liability insurance contracts, the duty to indemnify, the control of the defense, cooperation clauses, bad faith actions, exclusions, policy limits and the key differences between occurrence and claims made policies.

The Law of Contracts

Expert witnesses are often retained in cases involving contractual rights or issues. In this section experts will learn the law of contract formation, breach, defenses, and important contract clauses that materially affect the rights of parties. Experts will also learn how lawyers use experts to prove the existence of legally recognized contract defenses and damages, which contracts needs to be in writing, and how courts interpret oral, implied, express, and written contracts.

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Course Content:

The Discovery Process and Avoiding Discovery Abuse

The discovery process typically eats up most of the time and money in a lawsuit. In this section, you will learn the legally permissible rules that govern the scope of discovery. You will also learn the various methods attorneys use within this process to maximize their advantage, including interrogatories, requests for production of documents, depositions, subpoenas duces tecum, physical examinations, and requests for admissions. Included will be a discussion of specific discovery scenarios that make experts vulnerable to potential attorney abuse of this process and how experts can “fight back”.

Legal Requirements of Expert Witness Report Writing

You will learn what is legally required for expert witness report writing, including expressing expert opinions clearly, confidently, and with supporting rationale. The discussion will also include preparing Rule 26 reports for federal court, and the specific legal rules that govern what must be included in those expert witness reports.

The Law of Depositions: In Depth

In this section, you will learn the ins and outs of the law of depositions, including the types of question they can be expected to face, the role of retaining counsel, what attorney stipulations and objections mean, who is likely to attend their deposition, the rules governing reading and signing, when expert depositions can and cannot occur, the permissible length of depositions, the rules regarding payment of the expert's fee, how to deal with abusive questioning, and the special considerations that exist during video depositions.

Daubert and the 700 Series of Rules Dealing with Expert Witnesses

You will learn the laws that govern how and why a person is qualified to testify as an expert witness, the strategies attorneys use to prevent expert witnesses from testifying at trial, including the use of Daubert/Frye motions, and additional expert testimony rules that govern both the types of facts and data that experts can rely upon in forming their opinion, as well as the types of opinions that experts should and should not offer.

What Happens at a Civil Trial

This section covers the key aspects of a civil trial, including the role of the judge, jury, fact witnesses and expert witnesses, as well as the legal maneuvers attorneys make during the trial which affect the presentation of expert testimony.

What Can and Cannot be Asked of an Expert Witness at Trial

You will learn the role that the rules of evidence play in the presentation of evidence. You will also learn how evidence rules such as relevance and unfair prejudice can limit what the jury hears even if the expert thinks the evidence is relevant. You will further learn how these rules affect the kinds of questions attorneys can ask expert witnesses during direct and cross-examination.

The Hearsay Rule and How it Affects Expert Testimony

You will learn the key aspects of the hearsay rule, how attorneys invoke the rule, and why hearsay rules do not apply at deposition but do apply at trial. You will further learn how expert witnesses must keep these rules in mind when forming their opinions, expressing their opinions, determining what facts or statements on which they rely on and can base their opinions, and testifying at deposition and trial.

Jury Trials: What Experts Need to Know

This section covers the rules governing the jury's role in the case, and the specific legal rules, best practices and courtroom etiquette that govern an expert's interaction with the jury.

Expert Witness Liability and Risk Management

You will learn the traps for the unwary which can subject experts to criminal, civil and professional liability. Practical suggestions to avoid liability and manage risk will be provided.

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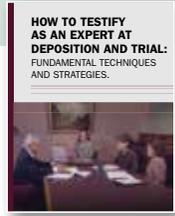
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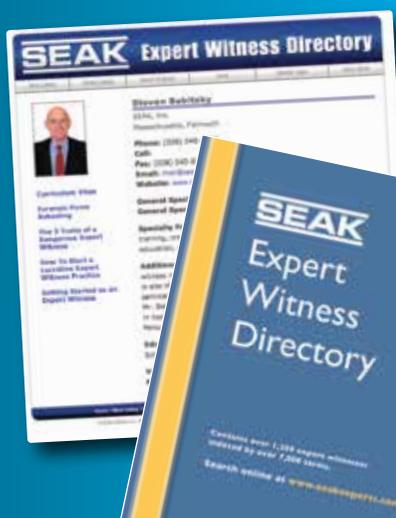


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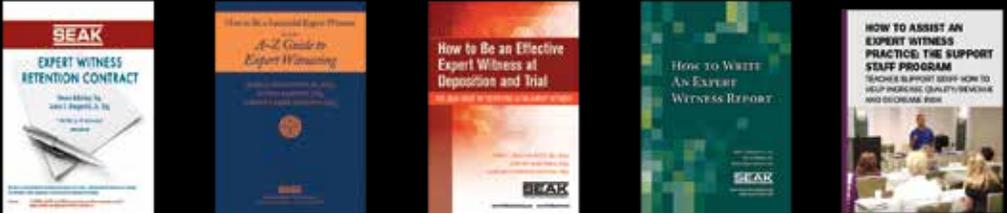
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