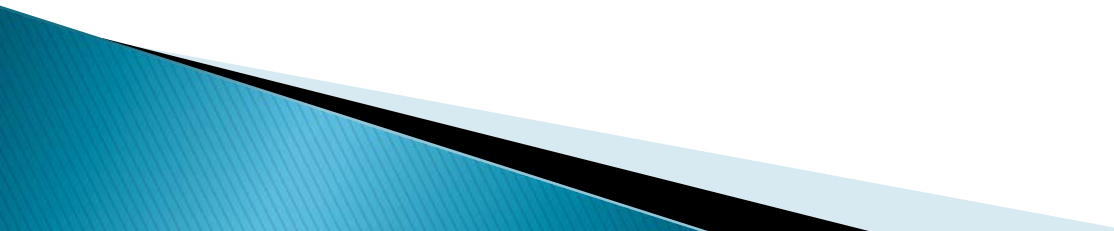


EXPERTS



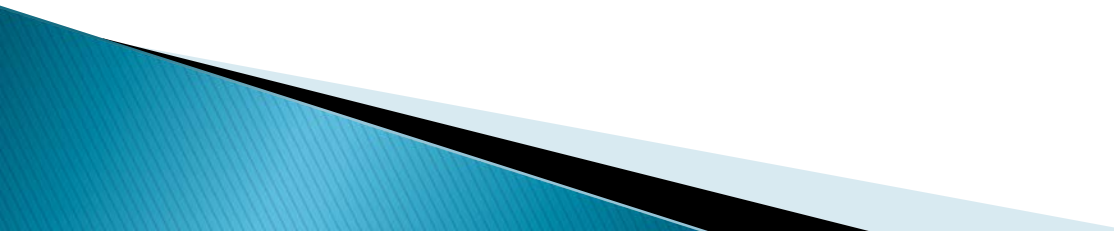
DIFFICULT WITNESSES

- ▶ Difficult, confusing and technical subject matters
 - ▶ Often testify in jargon
 - ▶ Judge and jury are easily confused and stop listening
 - ▶ Difficult to organize testimony in logical, understandable way
 - ▶ Goal is to clarify/simplify--KISS
- 

ORGANIZATION

- ▶ Introduce Expert
- ▶ Teaser
- ▶ Qualifications
- ▶ Opinion
 - Do you have an opinion to a reasonable degree of medical certainty as to whether the plaintiff's arm will ever return to normal?
 - What is that opinion?

ORGANIZATION

- ▶ Basis for Opinion
 - Usual procedure
 - Why follow this procedure
 - Procedure in this case
 - What found
 - Significance of what found
 - Conclusion
- 

ORGANIZATION

- ▶ Basis for Opinion
 - What done
 - Findings
 - Conclusion
 - Reasoning

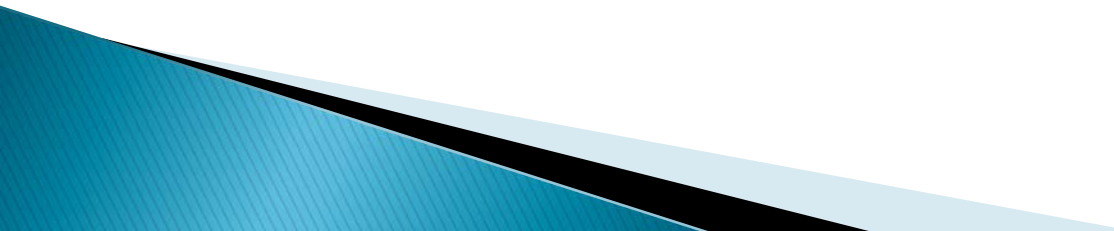
ORGANIZATION

- ▶ Theory Differentiation
 - ▶ Conclude With Opinion Again
- 

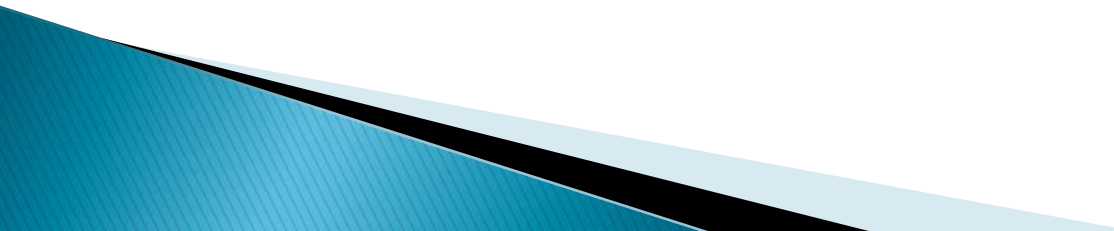
CROSS-EXAMINATION

- ▶ All the Rules of Cross-Examination Apply in Spades
 - Leading questions
 - One fact per question
 - Only objective facts
 - Don't ask witness to accept conclusions
 - Short, understandable questions
 - Do not repeat the direct
 - Organize around points

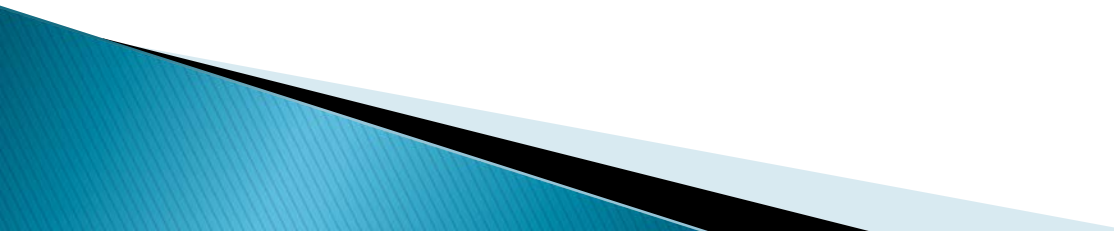
CROSS-EXAMINATION

- ▶ Goals of Cross-Examination
 - Obtain concessions that support your theory and weaken your opponent's theory
 - Present the expert as partisan
 - Limit areas of expertise
 - Demonstrate errors
 - Explain favorable theories
- 

CROSS-EXAMINATION

- ▶ Elicit Favorable Admissions
 - ▶ Attack Qualifications
 - ▶ Vary Assumptions
 - ▶ Show Bias
 - ▶ Lack of Personal Knowledge
 - ▶ Quality of Information Relied On
 - ▶ Attacking Assumptions
 - ▶ What the Expert Has Not Done
- 

CROSS-EXAMINATION

- ▶ Selection of Data or Procedures by Others
 - ▶ Errors in Calculation
 - ▶ Omission of Significant Facts
 - ▶ Narrow Areas of Expertise
 - ▶ Learned Treatises
- 

CROSS-EXAMINATION

▶ DANGEROUS AREAS

- Challenging Analysis or Logic
- Challenging Inferences
- Challenging Adequacy of Bases for Opinion