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