

# Expert Witness Training

NAPLES, FLORIDA

**How to Market and Grow Your  
Expert Witness Practice:  
*With Personal Attention***

November 8-9, 2012

**How to Write a Bulletproof  
Expert Witness Report**

November 8-9, 2012

**Advanced Testifying Skills:  
*The Master's Program***

November 10-11, 2012

- ***Small Group, Interactive Training***
- ***Florida Beach Front Resort Venue***



## Registration Information

**LOCATION/HOTEL ACCOMMODATIONS:** A limited block of rooms will be available at special rates at the site hotel, The Naples Beach Hotel & Golf Club. (\$189 Resort View/\$219 Gulf View). To make your reservations please call 1-800-237-7600 and mention that you are with SEAK, Inc. These rates are available for a limited time and on a limited number of rooms and expire on October 12, 2012, so you are strongly encouraged to make your reservations as soon as possible. Most major domestic carriers and several international airlines provide frequent service into Southwest Florida International Airport, just 40 minutes from the resort. Naples is located approximately 100 miles west of Miami and Ft. Lauderdale and 150 miles south of Tampa and is easily reached by automobile.

**SPECIAL EARLY REGISTRATION BONUS:** All persons registering prior to September 15, 2012 will receive a complimentary copy of SEAK's *National Guide to Expert Witness Fees and Billing Procedures* (a \$135 value).

**CANCELLATIONS:** Conference cancellations received in writing prior to October 15, 2012 will receive a full refund.

**MAIL to:** SEAK, Inc., P.O. Box 729, Falmouth, MA 02541 **FAX to:** 508.540.8304  
**CALL:** 508.457.1111 or **REGISTER ONLINE:** [www.seak.com](http://www.seak.com)

### PLEASE REGISTER ME FOR:

- How to Market and Grow Your Expert Witness Practice: *With Personal Attention***  
**(\$1,295) November 8-9, 2012**
- How to Write a Bulletproof Expert Witness Report**  
**(\$1,295) November 8-9, 2012**
- Advanced Testifying Skills: *The Master's Program***  
**(\$1,295) November 10-11, 2012**

Please print or type all items to assure accuracy.

All confirmations will be sent via email to the individual indicated.

Priority Code: NOV12

<input type="checkbox"/> Check here if you require special accommodations to fully participate.		
First Name (as it will appear on name badge):		
Last Name:		
Title:		
Company/Organization:		
Specialty/Area of Expertise (to be included on your nametag for networking purposes):		
Mailing Address:		
City:	State:	Zip:
Phone:	Fax:	
E-Mail: (Please print neatly - confirmations and other information will be sent via e-mail)		
<input type="checkbox"/> I've enclosed a check payable to: SEAK, Inc., P.O. Box 729 Falmouth, MA 02541		
<b>OR</b> I'm Paying by Credit Card (please circle card type) MC / Visa / Amex / Discover		
Card Number:	Exp. Date:	
Name as it appears on the card:	Security Code:	
Signature:		

## How to Market and Grow Your Expert Witness Practice: With Personal Attention

Naples Beach Hotel & Golf Club

Thursday-Friday, November 8-9, 2012

**Executive Summary:** This is the nation's most advanced program on expert witness business development. At the conclusion of this small group, limited attendance program, each attendee will leave with a personalized action plan containing numerous concrete, cost-effective action steps to further develop their expert witness practice. Each attendee will also receive individualized written feedback from the faculty regarding their niches, retention agreement, past and current marketing activities, case histories, communication and response policies, testimonial history, billing practices, expert witness web page, a print or online ad or listing, letterhead/business card, and their curriculum vitae. This program is only offered once per year.

**Pre-work:** Each attendee will be asked to submit for review and written critique the following:

- Detailed Attendee Questionnaire – past clients, forensic case history, areas of expertise, niches, fees, retention agreement, past and current marketing efforts, communication and response policies, qualifications, testimonial history, billing practices, and client valuation.
- Expert Witness Web Page.
- The copy from your online or print ads/listings.
- Fee Schedule/Agreement.
- Business Card.
- Letterhead.
- CV.

### What you will learn:

- How to identify and position yourself in a lucrative niche.
- Easy ways to make yourself more attractive to potential clients.
- What you can and should do to maximize repeat and word of mouth referrals.
- The unique dynamics of marketing an expert witness practice.
- Bulls Eye expert witness marketing – how to target the subset of attorneys most likely to hire you.
- How to avoid backlashes from inappropriate business development activities.
- How to build a platinum brand for your services.
- Where and how to speak and write to generate cases.
- The best and worst places to advertise and how to draft an ad most likely to produce results.
- The pros and cons of expert witness brokers and referral agencies.
- How to draft your personalized action plan which you will leave the training session with.
- Advanced, but easily implementable networking techniques to develop your expert witness business.
- How to properly track your referrals and how to properly value a new client.
- Much, much more.

**Registration Information:** Tuition is \$1,295 and includes two days of unique and practical instruction, individualized feedback, a detailed printed course manual not available anywhere else, and continental breakfast and lunch with faculty each day. To register, please use the form on page two or visit [www.seak.com](http://www.seak.com).

**Continuing Education Information:** There are no continuing education credits available for this program.



**Faculty: Steven Babitsky, Esq.,** is the President of SEAK, Inc. Mr. Babitsky trains hundreds of experts every year through SEAK's scheduled programs for expert witnesses, invited presentations, and customized expert witness training programs presented to corporations, associations, and governmental agencies. He also serves as a one-on-one consultant to expert witnesses who desire to improve their expert witness practices. He is the creator and co-seminar leader for the Annual National Expert Witness Conference and numerous one and two day training seminars. Attorney Babitsky is the co-author of numerous texts including *How to Market Your Expert Witness Practice: Evidence-Based Best Practices*, *The A-Z Guide to Expert Witnessing*, *How to Become a Dangerous Expert Witness*, *Writing and Defending Your Expert Report* and *Never Lose Again: Become a Top Negotiator by Asking the Right Questions*.

*Best Practices, The A-Z Guide to Expert Witnessing, How to Become a Dangerous Expert Witness, Writing and Defending Your Expert Report and Never Lose Again: Become a Top Negotiator by Asking the Right Questions.*

***“Mr. Babitsky is an amazing speaker and is so knowledgeable. He is very impressive.”***

***“Presenter was excellent.”***

***“Don’t change your style Steve. You’re a delight and fun to listen to ...and you hold our attention.”***

***“Excellent. Tough to improve on.”***

***“Very good.”***

***“Great information, practical.”***

***“I was blown away with this seminar.”***

## How to Market and Grow Your Expert Witness Practice: With Personal Attention

Naples Beach Hotel & Golf Club

DAY ONE: Thursday, November 8, 2012

### 7:30-8:00 REGISTRATION & CONTINENTAL BREAKFAST

#### 8:00-8:30 The Six Guiding Principles of Expert Witness Business Development

Faculty will discuss and explain the six guiding principles of expert witness marketing: the art of business development is an art – why there is no magic formula that will work for everyone and what to do about it, how to experiment with various techniques, how to better track your results, be patient and persistent, and modifications that work. **Questions & Answers.**

#### 8:30-9:00 Understanding How Much Each New Client is Worth

No marketing technique can be properly evaluated until an expert understands how to calculate how much each new client is worth. In this segment the faculty will explain the numerous factors that must be accounted for in order to determine the true value of a new client. **Questions & Answers.**

#### 9:00-10:00 The Special Dynamics of Marketing an Expert Witness Practice

Marketing an expert witness practice presents unique challenges. In this segment the faculty will discuss the three principles of marketing and how to account for and minimize a potential backlash from poorly conceived or worded marketing materials. **Questions & Answers.**

### 10:00-10:15 BREAK AND NETWORKING OPPORTUNITY

#### 10:15-11:15 The 24/7/365 Approach to Expert Witness Business Development

A critical concept of expert witness business development is that everything an expert or his staff does can influence how much work the expert is able to obtain. The faculty will detail best practices that will help increase any expert's case referrals, including telephone intake procedures, gatekeeper assignment, training and protocol, client and lead communication protocol, contact information availability and dissemination, how to excel during the first call from a prospective client, making yourself and your CV as attractive as possible, rate setting, engagement terms, and billing procedures. Examples from the attendees will be critiqued, analyzed, and discussed. **Questions & Answers.**

#### 11:15-12:00 Best Practices in Evaluating and Tracking Business Development Efforts

Any proper evaluation of a business development strategy must accurately account for the direct and indirect revenue generated by the strategy as well as the out of pocket and hidden costs associated with the strategy. In this segment the faculty will explain how to properly account for cost and revenue from an expert witness marketing strategy. Also discussed and explained will be specific methodologies for tracking the success of your business development techniques. **Questions & Answers.**

### 12:00-12:45 LUNCH PROVIDED WITH FACULTY

#### 12:45-1:45 Positioning Yourself in the Best Possible Light

Expert witnesses who are more attractive to potential clients will get more business. In this segment the faculty will explain how to make yourself as attractive as possible to potential clients. Specifically, the faculty will explain in detail how to project a positive and professional image (and the biggest mistakes experts make in this area), how case selection influences your image, which cases/law firms to seek out and which cases/law firms to avoid, demonstrably effective communication skills, filling in gaps and building your CV, keeping a low profile, and gaining the hands-on and relevant testifying experience that attorneys want to see. **Questions & Answers.**

#### 1:45-2:45 Maximizing Repeat and Word of Mouth Business: Evidence Based Best Practices

By far the most valuable and cost effective business development technique for expert witnesses is generating positive word of mouth. In this section the faculty will discuss the results of their proprietary research about action steps to take and what specifically will make attorneys want to hire an expert again or recommend that expert to a colleague, including: accessibility, exceeding expectations (and how to do this), communication skills, credibility, meeting deadlines, cross-examination performance, a personality that is likeable, fees and billings, work ethic, preparation, strength of opinions, and effectiveness on the witness stand. **Questions & Answers.**

### 2:45-3:00 BREAK AND NETWORKING OPPORTUNITY

#### 3:00-4:00 Finding your Niche

One of the most common and serious business development mistakes expert witnesses make is holding oneself out as an expert in numerous and broad areas. This is usually done to maximize potential business, but almost always has the opposite result. In this section the faculty will detail the substantial advantages which can flow from positioning yourself in the best narrow and lucrative niche including branding, vastly more efficient target marketing, decreased competition, increased subject matter knowledge, and making yourself far more attractive to potential clients. **Questions & Answers.**

#### 4:00-5:00 Identifying your Target Market

Business development can be greatly facilitated when an expert witness is able to identify and reach the precise subset of lawyers most likely to hire that expert. In this section the faculty will explain the benefits of finely targeted lead identification and will provide specific strategies for doing so including bar association membership and practice sub groups, online directories, CLE attendees and faculty, stand alone bar associations, networking, and leveraging your research. The faculty will use volunteer attendees as examples and discuss and explain how these volunteers can identify and reach their target market. **Questions & Answers.**

## How to Market and Grow Your Expert Witness Practice: With Personal Attention

Naples Beach Hotel & Golf Club

DAY TWO: Friday, November 9, 2012

6:30-7:00 CONTINENTAL BREAKFAST

### 7:00-8:00 How and Where to Advertise: Evidence Based Best Practices

Many experts shy away from advertising. Most shouldn't. Research and evidence suggests both that advertising can be remarkably cost effective and that, for most experts, there is little if any backlash from tasteful, factual ads. In this section the faculty will discuss and explain SEAK's detailed research on expert witness advertising including the best and worst-rated places to advertise. The faculty will also specifically explain what should and should not be in expert witness advertisements, how specifically to maximize the effectiveness of your ads, and how and where to test advertising.

**Exercise:** Example ads from the attendees will be critiqued, analyzed, and discussed. **Questions & Answers.**

### 8:00-9:00 Advanced Networking Techniques

Networking has consistently been shown to be one of the most cost effective methods for developing an expert's practice. In this segment the faculty will explain six specific techniques for staying in front of clients and how specifically to implement each. The faculty will further describe methods for networking with one's colleagues and how this can lead to case referrals. Also covered will be which professional organizations to join, how to leverage your personal relationships, why you should serve as a mentor, which conferences you should attend, and how to use online networking through LinkedIn to boost your expert witness practice. **Exercise:** The faculty will lead an interactive discussion utilizing volunteer attendees on what action steps these attendees should implement to improve their networking. **Questions & Answers.**

9:00-9:15 BREAK AND NETWORKING OPPORTUNITY

### 9:15-10:00 Speaking

Speaking can be very good for business. In this segment the faculty will explain the subtle nuances that need to be navigated to get the most out of one's speaking engagement. The faculty will explain where to talk, how to get invited, when the best time to talk is, and how to get invited back. The benefits and drawbacks of each category of venues will be candidly described. The faculty will also describe how to calculate the true cost of your speaking engagements. In addition, the faculty will offer advice on risk management so that the expert's presentation does not come back to haunt the expert. **Exercise:** The faculty will lead an interactive discussion utilizing volunteer attendees on what action steps these attendees should implement to obtain helpful speaking opportunities. **Questions & Answers.**

### 10:00-10:45 Writing

Publishing can also be quite helpful to an expert's practice development. In this segment the faculty will explain how to choose the correct topic to write on, the various types of writing that experts can do (white papers, articles, peer review articles, books, etc.), how to calculate the cost of writing, risk management considerations influencing your title, content, and where to publish. **Exercise:** The faculty will lead an interactive discussion utilizing volunteer attendees on what action steps these attendees should implement to utilize writing to promote their expert witness practices. **Questions & Answers.**

10:45-11:00 BREAK AND NETWORKING OPPORTUNITY

### 11:00-12:00 Your Expert Witness Web Site

Some experts have found having a dedicated website to be helpful to business development. Others have not. In this section the faculty will discuss their research as to how trial attorneys view expert web sites and give candid advice as to whether experts should develop one. The faculty will explain low and no cost ways to develop and optimize a web presence without creating a web site from scratch. The faculty will also explain the most common ways to create your web site and how experts should and should not optimize these. Also discussed will be what should and should not be on an expert's web site. **Exercise:** The faculty will lead an interactive discussion utilizing volunteer attendees on what action steps these attendees should implement regarding a web presence to support practice development. **Questions & Answers.**

12:00-12:45 LUNCH WITH FACULTY PROVIDED

### 12:45-1:15 Expert Witness Brokers and Referral Services: The Good, The Bad, and The Ugly

Numerous third party "matchmakers" such as brokers and referral services can be utilized to facilitate case referrals. The faculty will provide a frank description of the results of their research on how satisfied other experts have been with these services. Included will be a discussion of which services are most highly rated by your colleagues and what experts should know before deciding whether to work with matchmakers including, experiences of your colleagues, contracting, common issues, the types of cases you are likely to get, fee collection, tire kickers, restrictive covenants and other issues. **Questions & Answers.**

### 1:15-2:15 Personalized Marketing Plans

Attendees will work with faculty to pull together a personalized marketing plan to greatly expand their practices. **Questions & Answers.**

### 2:15-2:30 Conclusion

The faculty will answer any final questions.

**How to Write a Bulletproof Expert Witness Report**

Naples Beach Hotel &amp; Golf Club

Thursday-Friday, November 8-9, 2012

NEW!

**Executive Summary:** This limited attendance, interactive workshop teaches you how to draft superior reports.

Each attendee will be asked to submit in advance of the course a sample report for critique and use in the class demonstrations. Each attendee will be provided with a detailed 200+ page course handbook not available elsewhere. The course manual contains practical and specific bullet-point advice along with numerous examples of both poor and effective report language. You will leave the course with an extensive, customized set of action steps to follow to help you write more powerful, persuasive and defensible reports. The course is taught using six methodologies: lecture, questions and answers, well written report excerpts, report writing exercises, report critique exercises, and mock cross examination exercises. Continental breakfast and lunch with the faculty is provided each day. **This program is only offered once per year.**

**Registration Information:** Tuition is \$1,295 and includes two days of unique and practical instruction, a detailed 200+ page printed course manual not available anywhere else, and continental breakfast and lunch with faculty each day. To register, please use the form on page two or visit [www.seak.com](http://www.seak.com).

**Cancellations:** Conference cancellations received in writing prior to October 15, 2012 will receive a full refund.

**Continuing Education Information:** Note: If your specialty does not appear below and you desire credits, please contact Karen Cerbarano (781-826-4974 or [Karen@seak.com](mailto: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:** Earn 17.0 CPE credits in the field of study of Specialized Knowledge and Applications. SEAK, Inc. 108578 is registered with the National Association of State Boards of Accountancy (NASBA) as a sponsor of continuing professional education on the National Registry of CPE Sponsors. State boards of accountancy have final authority on the acceptance of individual courses for CPE credit. Complaints regarding registered sponsors may be addressed to the National Registry of CPE Sponsors, 150 Fourth Avenue North, Suite 700, Nashville, TN, 37219-2417. Web site: [www.nasba.org](http://www.nasba.org) For SEAK, Inc.'s complaint and program cancellation policies please call SEAK, Inc. at 508-457-1111. There are no prerequisites for this intermediate group-live program. No advanced preparation is required. To register, please follow instructions on page 2. This course was created in March 2012. **Appraisers:** Credits from The American Society of Appraisers will be applied for on written request at the time of registration. **Arborists:** SEAK will apply for Continuing Education hours through The International Society of Arboriculture (ISA) on written request at 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. **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. **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)<sup>™</sup>. Physicians should claim only the credit commensurate with the extent of their participation in the activity. **Psychologists:** 14 CE Credits. SEAK, Inc. is approved by the American Psychological Association to sponsor continuing education for psychologists. SEAK, Inc. maintains responsibility for this program and its content. To receive credit each psychologist must attend the entire program, sign in before the program, sign out after the program and return a completed evaluation form. PARTIAL CREDIT IS NOT PERMITTED

NOTE: SEAK does not accept commercial support for its programs and does not use faculty members with conflicts of interest.

**Faculty:**

**James J. Mangraviti, Jr., Esq.** has trained thousands of expert witnesses. He is a former litigator with experience in defense and plaintiff personal injury law and insurance law. He currently serves as Principal of SEAK, Inc. Mr. Mangraviti received his BA degree in mathematics *summa cum laude* from Boston College and his JD degree *cum laude* from Boston College Law School. His publications include the texts *Writing and Defending Your Expert Report: The Step-by-Step Guide with Models*, *The Biggest Mistakes Expert Witnesses Make: And How to Avoid Them*, *Depositions: The Comprehensive Guide for Expert Witnesses*, *The A-Z Guide to Expert Witnessing*, *Cross-Examination: The Comprehensive Guide for Experts*, *National Guide to Expert Witness Fees and Billing Procedures*, *Writing and Defending Your IME Report, How to Excel During Depositions: Techniques for Experts That Work*, *How to Become a Dangerous Expert Witness: Advanced Techniques and Strategies*, and *How to Market Your Expert Witness Practice: Evidence-Based Best Practices*.

for Experts, National Guide to Expert Witness Fees and Billing Procedures, Writing and Defending Your IME Report, How to Excel During Depositions: Techniques for Experts That Work, How to Become a Dangerous Expert Witness: Advanced Techniques and Strategies, and How to Market Your Expert Witness Practice: Evidence-Based Best Practices.

# How to Write a Bulletproof Expert Witness Report

Naples Beach Hotel & Golf Club

DAY ONE: Thursday, November 8, 2012

NEW!

## 7:30-8:00 REGISTRATION & CONTINENTAL BREAKFAST

### 8:00-8:30 Introduction

Attendees will introduce themselves to the group. Faculty will explain the reasons why a well drafted report is critically important as a roadmap to direct testimony, talking points on cross, to help you to prepare to testify, and to enhance your brand. Faculty will explain the six major methodologies that will be used to teach the program, namely: lecture, questions and answers, analysis of well written report excerpts, report writing exercises, report critique exercises, and mock cross examination exercises. *Learning Objective: Explain the benefits of a well-written expert witness report.* **Questions & Answers.**

### 8:30-9:15 How to Protect Your Report, Yourself, and Your Opinions from *Daubert*, Qualifications, and Other Admissibility Challenges.

An inferior investigation or straying outside of your true area of expertise can lead to an indefensible written report. A poorly written report can lead to being excluded from testifying. Such an exclusion is often a career ending event. In this section, the faculty will explain how opposing counsel can and will use Rule 702, Rule 703, and the *Daubert* line of cases to attempt to limit or exclude the expert's testimony. The legal basis for each of these challenges will be explained in easy to understand terms. Attendees will be provided with 16 methods and techniques to protect themselves from admissibility challenges. *Learning Objective: Describe techniques to protect yourself from having your testimony limited or excluded.* **Questions & Answers.**

### 9:15-10:15 How to Draft a Powerful, Persuasive, and Understandable Report

Every word in your expert report matters. In this segment the faculty will present twenty-two techniques for drafting a more powerful, persuasive and defensible expert witness report. Each of the techniques learned in this segment will be used in the segments that follow. **Questions & Answers.**

## 10:15-10:30 BREAK AND NETWORKING OPPORTUNITY

### 10:30-11:30 How to Draft a Powerful, Persuasive, and Understandable Report (Continued)

Attendees will be asked to complete a series of writing exercises in which they will improve the language of sample report segments which they will be presented with. *Learning Objective: List action steps to draft more powerful, persuasive and understandable expert reports.* **Questions & Answers.**

### 11:30-12:00 Report Templates and How to Format Your Expert Witness Report

Looks matter. A well laid out report will carry more weight than a report exhibiting poor formatting and style. In this section, faculty will discuss the importance of style, layout, and formatting and provide twenty-three easily implementable suggestions for making your expert witness report stand out. Samples from well formatted reports will be provided and studied. Attendees will be asked to critique and suggest formatting improvements to sample report segments. *Learning Objective: Describe methods for improving the style, layout, and formatting of your expert witness report.* **Questions & Answers.**

## 12:00-12:45 LUNCH PROVIDED WITH FACULTY

### 12:45-1:45 How to Document Your Assignment

Attendees will learn how to obtain a clear and unambiguous expert witness assignment from counsel (with the necessary documents) and why this will increase the likelihood of meeting and exceeding the expectations of counsel. Attendees will be provided with a checklist of eight questions to ask retaining counsel at the beginning of the engagement. Faculty will explain six best practices that can be used to document the scope of the assignment in your report. Attendees will be provided with sample assignment sections of reports, will be asked to critique assignment report sections, and will be asked to draft a concise assignment section. *Learning Objective: Describe techniques to utilize when obtaining and documenting your expert witness assignment.* **Questions & Answers.**

### 1:45-2:45 How to Document Your Qualifications

Attendees will learn sixteen best practices for persuasively and accurately describing how and why they are qualified to opine on the case at hand. Sample expert witness report segments regarding qualifications will be reviewed. Attendees will be asked to critique the qualifications sections from several sample reports as well as draft a concise qualifications section to a report. *Learning Objective: List methods for most effectively documenting your qualifications.* **Questions & Answers.**

## 2:45-3:00 BREAK AND NETWORKING OPPORTUNITY

### 3:00-4:15 How to Best Describe Your Document Review, Research & Investigation

Many problems in expert reports are not caused by the drafting of the report per se. Instead, these problems are a reflection of suboptimal document review, research & investigation. Put simply, if the work prior to the expert report is flawed, it will make drafting a solid report difficult. In this segment, attendees will learn proven techniques for forming solid opinions which can be easily documented into a persuasive and defensible expert witness report. In addition, attendees will be provided with sixteen techniques for how to best document their review of documents, research and investigation.

**How to Write a Bulletproof Expert Witness Report**

Naples Beach Hotel &amp; Golf Club

DAY ONE, CONTINUED: Thursday, November 8, 2012

NEW!

Sample report segments will be reviewed. Attendees will be asked to critique sample report segments as well as to draft a concise documents reviewed and research/investigation sections. *Learning Objective: List techniques to better document your document review, research and opinions.* **Questions & Answers.**

**4:15–5:00 How to Make Optimum Use of Charts, Graphs, Timelines, and Photographs in Your Expert Witness Report**

A picture says a thousand words. In this segment the faculty will explain and demonstrate the advantages of adding charts, graphs, timelines and photographs to an expert witness report and provide eleven best practices suggestions for doing so. Sample reports segments with charts, graphs, timelines and photographs will be provided. Attendees will be asked to critique for possible improvement several report segments containing charts, graphs, timelines and photographs. *Learning Objective: Describe when and how charts, graphs, timelines and photographs should be used to improve an expert report.* **Questions & Answers.**

**DAY TWO: Friday, November 9, 2012****6:30–7:00 CONTINENTAL BREAKFAST****7:00–7:45 How to Best Deal with Confounding Data and Studies and Alternate Explanations and Theories**

Slam dunk opinions are few and far between. Almost every close case has facts, research or other items that undercuts the expert witness's opinions. Such information is ignored in a report at the expert witness's peril. In this segment, attendees will learn five techniques for how to properly document confounding information, alternative explanations and alternative theories in a way that puts this information into context. Sample report segments will be reviewed. Attendees will be asked to critique relevant report sections as well as to draft a concise report segment dealing with confounding data, studies, or alternative explanations and theories. *Learning Objective: List action steps to best document confounding data.* **Questions & Answers.**

**7:45–9:15 Properly Expressing Your Opinion**

An expert witness is retained primarily for the purpose of giving an opinion or opinions. Opinions need to be expressed in an expert witness report clearly, confidently, and with supporting rationale. In this segment attendees will learn fourteen techniques for more persuasively stating opinions in their reports. Sample report segments will be reviewed. Attendees will be asked to critique relevant report sections as well as to draft a concise report segment in which they clearly and persuasively express their opinion(s). *Learning Objective: Discuss best practices for expressing opinions in expert witness reports.* **Questions & Answers.**

**9:15–9:30 BREAK AND NETWORKING OPPORTUNITY****9:30–10:15 How to Best Rebut The Opposing Expert's Opinion(s)**

When an expert witness is aware of the opposing expert witness's opinions, these should be dealt with in the expert's report. In this segment attendees will learn nine techniques to persuasively document how and why the opposing expert's opinion is flawed. Sample report segments will be reviewed. Attendees will be asked to critique relevant report sections as well as to draft a concise report segment in which they rebut an opposing expert's opinion(s). *Learning Objective: List techniques for effectively rebutting the opposing expert's report.* **Questions & Answers.**

**10:15–10:45 How to Properly Use Boilerplate, Standard Language, and Disclaimers**

Most experts use standard boilerplate language and disclaimers in their expert witness report. In this segment the faculty will offer seven guidelines on the use and misuse of boilerplate language. Sample boilerplate language and sample disclaimers will be provided. Attendees will be asked to critique relevant report sections as well as to draft a concise report segment containing standardized verbiage. *Learning Objective: Identify boilerplate language and disclaimers to include in your expert report.* **Questions & Answers.**

**10:45–11:00 BREAK AND NETWORKING OPPORTUNITY****11:00–11:30 Discovery, Ethics and The Influence of Retaining Counsel**

Faculty will explain the various discovery rules which (depending upon the jurisdiction the case is in) may govern your communications with counsel and draft reports. Suggestions for how and when to communicate with retaining counsel will

CONTINUED



**How to Write a Bulletproof Expert Witness Report**

Naples Beach Hotel &amp; Golf Club

DAY TWO, CONTINUED: Friday, November 9, 2012

**NEW!**

be provided. Also included will be eight suggestions for how to protect your credibility and deal with potential overreaching by retaining counsel. *Learning Objective: Describe best practices for communicating with and working with retaining counsel. Questions & Answers.*

**11:30-12:00 How to Excel When Drafting Rule 26 Reports for Federal Court**

Federal Rule of Civil Procedure 26 governs what must be included in expert witness reports in federal cases. Following Rule 26 is mandatory. In this segment attendees will learn how to make sure their report complies with FRCP 26. Specific techniques to excel when drafting Rule 26 reports will be provided as well as sample Rule 26 report segments. *Learning Objective: List the legal requirements for Rule 26 reports and describe techniques for complying with these requirements. Questions & Answers.*

**12:00-12:45 LUNCH WITH FACULTY PROVIDED****12:45-1:15 Quality Control & Editing Techniques for Expert Witness Reports**

At best, mistakes in an expert witness report can be embarrassing. At worst, mistakes can completely destroy an expert witness's credibility. In this segment attendees will learn the ten point protocol for quality controlling their reports. Included will be a detailed quality control checklist which can be used by the expert or one of the expert's support staff. *Learning Objective: Identify protocols for editing and reviewing expert witness reports. Questions & Answers.*

**1:15-2:15 How to Defend Your Expert Witness Report at Deposition, Hearing & Trial**

An expert witness is likely to be attacked through his report while testifying. In this segment attendees will participate in mock testimony demonstrations based upon their pre-submitted reports. Each demonstration will focus on: 1. How could the expert have better handled the attack/tactic that was being used by counsel? 2. How could the expert have avoided or lessened the attack had the expert drafted their report differently? Attendees will be provided with a fifteen point outline of how, specifically, attorneys will attack an expert through their report. *Learning Objective: Describe techniques for defeating opposing counsel's tactics while testifying about your report. Questions & Answers.*

**2:15-2:30 The Biggest Report Writing Mistakes Expert Witnesses Make: And How to Avoid Them**

To reinforce the concepts learned in this workshop, attendees will be provided with a list of the 32 biggest mistakes that expert witnesses commonly make on their reports. The list is designed to be used as a take home quality control checklist. *Learning Objective: Identify the biggest mistakes expert witnesses make in their reports. Questions & Answers.*



**Advanced Testifying Skills: The Master's Program**

Naples Beach Hotel &amp; Golf Club

Saturday-Sunday, November 10-11, 2012

**Executive Summary:** This program is the most advanced course offered by SEAK on expert witnessing. It is designed specifically for experienced expert witnesses and provides personalized written feedback to attendees on their pre-submitted CVs and sample expert reports (for those registering prior to October 1, 2012). Advanced Testifying Skills: The Master's Program includes a free copy of SEAK's *National Guide to Expert Witness Fees and Billing Procedures* (for those registering prior to September 15, 2012). **This program is only offered once per year.**

**Registration Information:** Tuition is \$1,295 and includes two days of unique and practical instruction, feedback on your CV and report, a detailed printed course manual not available anywhere else, and continental breakfast and lunch with faculty each day. To register, please use the form on page two or visit [www.seak.com](http://www.seak.com).

**Benefits of Attending:**

- Receive personalized written feedback on your presubmitted CV and Report
- Learn how to bulletproof yourself from attack
- Understand techniques for how to form airtight opinions.
- Opportunity to participate in mock direct and cross examination demonstrations
- Get your questions answered
- Learn how to properly prepare to testify
- Understand and learn to defeat counsel's tactics and tricks
- Learn how to turn the tables on opposing counsel
- Become a far more valuable expert witness

*"Enjoyed most the immediate feedback of Steve and Jim critiquing 'testimony.'"*

*"I enjoyed and appreciated your great teaching techniques and excellent material presented. I got a lot out of it."*

*"I'm amazed at how much you remember about each of us."*

*"Great performances."*

*"Great work!"*

*"Take no prisoners: I loved it."*

**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](mailto: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:** Earn 16.5 CPE credits in the field of study of Specialized Knowledge and Applications. SEAK, Inc. 108578 is registered with the National Association of State Boards of Accountancy (NASBA) as a sponsor of continuing professional education on the National Registry of CPE Sponsors. State boards of accountancy have final authority on the acceptance of individual courses for CPE credit. Complaints regarding registered sponsors may be addressed to the National Registry of CPE Sponsors, 150 Fourth Avenue North, Suite 700, Nashville, TN, 37219-2417. Web site: [www.nasba.org](http://www.nasba.org) For SEAK, Inc.'s complaint and program cancellation policies please call SEAK, Inc. at 508-457-1111. There are no prerequisites for this advanced group-live program. No advanced preparation is required. This program was reviewed on January 25, 2012. To register, please follow instructions on page 2. **Appraisers:** Credits from the The American Society of Appraisers will be applied for on written request at the time of registration. **Arborists:** SEAK will apply for Continuing Education hours through The International Society of Arboriculture (upon written request at 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.

**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. **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)<sup>™</sup>. Physicians should claim only the credit commensurate with the extent of their participation in the activity. **Psychologists:** 14 CE Credits. SEAK, Inc. is approved by the American Psychological Association to sponsor continuing education for psychologists. SEAK, Inc. maintains responsibility for this program and its content. To receive credit each psychologist must attend the entire program, sign in before the program, sign out after the program and return a completed evaluation form. **PARTIAL CREDIT IS NOT PERMITTED. NOTE:** SEAK does not accept commercial support for its programs and does not use faculty members with conflicts of interest.

**Faculty:**

**Steven Babitsky, Esq.** and **James J. Mangraviti, Esq.** are former litigators who have trained thousands of expert witnesses. They have been retained by Fortune 500 companies, boutique forensic firms, individual experts, and governmental agencies such as the FBI, IRS and DoD. Steve and Jim have led hundreds of seminars training expert witness and are the co-authors of numerous texts on expert witnessing including *The A-Z Guide to Expert Witnessing*, *Cross-Examination: The Comprehensive Guide for Experts*, *National Guide to Expert Witness Fees and Billing Procedures*, *How to Excel During Cross-Examination: Techniques for Experts That Work*, *How to Excel During Depositions: Techniques for Experts That Work*, *Writing and Defending Your Expert Report: The Step-by-Step Guide with Models*, *How to Become a Dangerous Expert Witness: Advanced Techniques and Strategies*, and *The Biggest Mistakes Expert Witnesses Make: And How to Avoid Them* and have co-produced several educational DVDs for expert witnesses. Steve and Jim currently serve as principals of SEAK, Inc. a national continuing education firm specializing in training, consulting, and services for expert witnesses of all specialties.



**Advanced Testifying Skills: The Master's Program**

Naples Beach Hotel &amp; Golf Club

DAY ONE: Saturday, November 10, 2012

**PART I: PREVENTION****7:15–7:45 CONTINENTAL BREAKFAST AND REGISTRATION****7:45–9:45 Protecting Yourself from Attacks on your Credibility and Credentials**

The most valuable experts deny opposing counsel ammunition to attack their credentials and credibility. This segment will identify a detailed checklist of potential areas of attack that experts may be subject to regarding their credentials and credibility including: every word on their CVs, skeletons in the closet, past testimony, their image, controversial or political associations, missing credentials, fees, fee schedules, fee agreements, marketing materials, web page, speeches, work on past cases, apparent and actual conflicts of interest, non-related litigation, hobbies, professional complaints or discipline, presentations and writings. The faculty will provide specific advice on how to insulate yourself as much as possible from these attacks. Emphasized will be prevention and the “hidden pitfalls” that can and will come back to haunt the expert at a later date. **Demonstrations, Interactive Discussion, Questions and Answers.** *Learning Objective: List techniques to insulate you from attack from opposing counsel.*

**9:45–10:00 BREAK AND NETWORKING OPPORTUNITY****10:00–11:45 Forming Airtight Opinions**

The best experts express opinions that hold up under the most rigorous scrutiny and cross-examination. This segment will identify many ways in which opposing counsel is able to poke holes in an expert's opinion. The faculty will provide specific action steps to bullet-proof your opinion including, proper case and client selection, avoiding time crunches, using careful and confident language, not overstating or understating facts or opinions, consistency, dealing with the opinions of other experts, knowing exactly what needs to be proved, testing alternative theories, properly using reliable equipment, taking careful and precise measurements, being well-trained and well-versed in any computer program used, verifying computer results, leaving no stone unturned, taking photographs, verifying your factual assumptions, gaining as much first hand knowledge as possible, thoroughly researching the issues at hand, obtaining and carefully reviewing all relevant documents, not sharing draft reports with counsel, avoiding “junk science,” understanding how the *Daubert* rule applies in your specialty and jurisdiction, maintaining accurate billing records and avoiding even the appearance of impropriety. **Demonstrations, Interactive Discussion, Questions and Answers.** *Learning Objective: Describe how to make your opinions more resistant to cross examination.*

**11:45–12:30 LUNCH WITH FACULTY (PROVIDED)****PART II: PREPARATION****12:30–2:00 Properly Preparing to Testify at Deposition and Trial**

Peak performance requires proper and disciplined preparation done correctly. Well prepared experts are able to deliver confident testimony, deal with cross examination far more effectively, and are in a much better position to articulate and defend their opinions. In this segment, the faculty will explain advanced techniques that can and should be used to prepare for depositions, direct examination and cross-examination. Included is an explanation of the goals of retaining counsel at your deposition and how this effects your preparation, how to insure that retaining counsel properly prepares you to testify, how to study your file, which facts and documents must be known cold, making sure the language you intend to use is understandable to a lay audience, forming and testing analogies, conducting mock direct and cross-examinations with retaining counsel, gaining and using intelligence on the judge, jury, jurisdiction and opposing counsel, and being in your best form when it comes time to testify. **Demonstrations, Interactive Discussion, Questions and Answers.** *Learning Objective: Describe techniques to effectively prepare to testify.*

**2:00–2:15 BREAK AND NETWORKING OPPORTUNITY****PART III: PERFORMANCE****2:15–4:15 Defeating Opposing Counsel's Deposition Tactics**

The best experts recognize that most cases are won and lost in the discovery phase and that the expert's deposition is a crucial—often outcome determinative—component of the case. In order to excel at the highest level during a deposition, experts need to be able to recognize and defeat opposing counsel's deposition tactics and recognize how these tactics differ from those used during trial. This segment will teach experts how to recognize and defeat counsel's most insidious deposition tactics including, going for the jugular at the start, physical discomfort, waiving rights, locking down the expert on the facts, playing games with the videotape image, the silence gambit, gaining extra discovery from the expert, wearing the expert down, baiting the expert, getting the expert to talk and volunteer information, questioning notes, setting the expert up for a subsequent *Daubert* challenge, setting the expert up for a subsequent learned treatise cross examination, putting many balls in the air at once, asking about conversations with retaining counsel, intimidating the expert, tricking the expert into inconsistencies, trick questions about documents, the “fumble and bumble” gambit, getting the expert into a rhythm, and utilizing broad catchall questions. Many of the above tactics will be demonstrated with a brief demonstration using attendees. **Demonstrations, Interactive Discussion, Questions and Answers.** *Learning Objective: Discuss how to defeat opposing counsel's deposition tactics.*

**Advanced Testifying Skills: The Master's Program**

Naples Beach Hotel &amp; Golf Club

DAY TWO: Sunday, November 11, 2012

**PART III: PERFORMANCE (CONTINUED)****6:30-7:00 CONTINENTAL BREAKFAST****7:00-8:30 Mastering the Art of Persuasion During Direct Testimony**

The best experts deliver powerful and understandable direct testimony. This section will explain and demonstrate numerous advanced techniques for delivering captivating, memorable and persuasive direct expert testimony. The advanced techniques explained include: showing - not telling, getting to the point up front and explaining later, being well-prepared and well-organized, making the complex simple, entertaining, being likeable, highlighting your most relevant qualifications, working on a smooth flow and style, getting out of the jury box early and often, using visual aids that work, aggressively self-editing, employing powerful, memorable analogies, showing your human side and bonding with the jury, using precise language, using confident language, employing short preview and review summaries, using numbered lists, citing references, speaking conversationally, conforming your testimony to the theme of the case, and reading and reacting to the jury. Many of these techniques will be illustrated with brief demonstrations utilizing attendees. **Demonstrations, Interactive Discussion, Questions and Answers.** *Learning Objective: List techniques to present more persuasive direct testimony.*

**8:30-8:45 BREAK AND NETWORKING OPPORTUNITY****8:45-10:30 Staying One Step Ahead of Opposing Counsel During Cross-Examination**

The best experts are able to stay one step ahead of opposing counsel during cross-examination by recognizing and defeating opposing counsel's tactics. In this segment, experts will learn advanced techniques for identifying and defeating dozens of opposing counsel's cross-examination tactics, including mischaracterizations, accusations of inconsistencies, learned treatise impeachment, attacking the expert's credentials, taking statements out of context, intimidating the expert, challenging the expert on figures and calculations, fee questions, bullying, misleading questions, challenging the expert's factual assumptions, asking for concessions, "yes or no," accusing the expert of bias, contrasting the expert's opinions, timelines, agitating the expert, tricking the expert, pushing the expert to an extreme position, interrupting the expert and asking the expert to define certain terms. Many of these tactics and defenses will be demonstrated with brief demonstrations utilizing attendee participation. **Demonstrations, Interactive Discussion, Questions and Answers.** *Learning Objective: Explain how to defeat opposing counsel's cross examination tactics.*

**10:30-10:45 BREAK AND NETWORKING OPPORTUNITY****10:45-12:00 Going On Offense During Cross-Examination**

The rarest of all experts are those experts who are able to turn the tables on opposing counsel during cross-examination and "stick the knife in." These experts are particularly dangerous as opposing counsel is quite likely to lose far more ground during cross-examination that she is to gain. In this section, the faculty will explain dozens of techniques to turn the tables on opposing counsel, including; repeating damaging portions of your direct testimony, twelve techniques for breaking counsel's momentum, pushing back, interpreting a "yes or no" question as being open-ended, using backhanded compliments, responding to a question with a question, baiting counsel into asking one question too many, tasteful humor, offering explanations, pointing out the misleading nature of a question, actively challenging false factual assumptions in predicate questions, lulling counsel into a false sense of security prior to pouncing, striking back with a light touch, six techniques to encourage counsel to lose his cool, self-deprecating remarks, pointing out hypocrisy, injecting personal information in your responses and requesting permission to explain. Many of these techniques will be demonstrated by brief interactive cross-examination demonstrations using students in the class. **Interactive Discussion, Questions and Answers.** *Learning Objective: Explain how to turn the tables on opposing counsel.*

**12:00-12:45 LUNCH WITH FACULTY (PROVIDED)****PART IV: PRACTICE****12:45-2:30 Advanced Testifying Skills in Action: Skillfully Answering Cross-Examination Questions**

This final segment is designed to allow the attendees to solidify the knowledge gained earlier in the course. The faculty will ask the attendees numerous trick and difficult cross-examination questions. For each question, the attendees will have an opportunity to practice the techniques covered in this program by explaining how the question could have been avoided, how they could have and should have prepared to answer the question, identifying the tactic that counsel is using and delivering a response that defeats the tactic and/or allows the expert to turn the tables and go on the offensive. **Demonstrations, Interactive Discussion, Questions and Answers.** *Learning Objective: Describe truthful and artful responses to trick and difficult questions.*

**2:30-3:00 Takeaways, Conclusion & Evaluation**

The instructors will take any final questions and solicit from the group a concise set of practical "bullet point" takeaways based on what was learned in this intensive, two-day program. Evaluation forms will be completed and turned in. *Learning Objective: List techniques to be a more effective expert witness.*

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- Advanced techniques to defend against 40 of counsel's most devastating tactics used to attack you through your report,
- Legal requirements regarding Rule 26 expert reports and reports used in summary judgment motions, and
- The techniques used by a dozen leading experts to write and defend an expert report.

Hardbound, 420 pages; © 2002 | ISBN: 1892904217

Price: \$99.95 | SKU# REPBOOK

## **The A-Z Guide to Expert Witnessing**

The comprehensive survey text on expert witnessing. The topics covered include civil procedure, evidence, qualifications, CV writing, forming and expressing opinions, report writing, testifying skills, marketing, fee setting, billing, collections, ethics, privileges, discovery, avoiding abuse and much more. You will learn:

- How to best connect with and persuade a jury,
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- How to handle abuse by attorneys,
- How to maintain high ethical standards,
- How to bullet-proof your CV and written reports,
- How to meet challenges under *Daubert*,
- The limits of discovery and privilege.

Hardbound, 626 pages; © 2006 | ISBN: 1-892904-29-2

Price: \$135 | SKU: AZBOOK

## **How to Become a Dangerous Expert Witness**

This book teaches experienced experts how to become dangerous experts. The mere disclosing of a dangerous expert to the opposing side can frequently increase the settlement value of a case.

Accordingly, dangerous experts are selective in the types of cases they accept and are able to command premium fees. Opposing lawyers are concerned about the dangerous expert's expertise, command of the facts and his or her ability to communicate, teach and persuade the jury. Dangerous experts understand how to defeat opposing counsel's tactics and are even capable of turning the tables on opposing counsel. You will learn:

- How to bulletproof yourself and your opinions,
- What dangerous experts do when preparing to testify,
- How to defeat opposing counsel's deposition and cross-examination tactics,
- Advanced techniques for delivering persuasive and memorable direct testimony, and
- How and when to take the offensive and turn the tables on opposing counsel.

Hardbound, 433 pages; © 2005 | ISBN: 1892904276

Price: \$99.95 | SKU# DANGEROUS

## **The Biggest Mistakes Expert Witnesses Make and How to Avoid Them**

Most of the mistakes expert witnesses make are 100% avoidable. SEAK's new text helps experts to quickly and simply avoid the frustration, embarrassment and humiliation of making mistakes. The reader is provided with over 200 of the most common mistakes expert witnesses make over and over again. Learn from the mistakes of other experts and avoid making the same mistakes yourself. AVOID 200 OF THE BIGGEST MISTAKES EXPERTS MAKE IN THEIR:

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Hardbound, 336 Pages; © 2008 | ISBN: 1892904331

Price: \$100 | SKU: BME

## **Depositions: The Comprehensive Guide for Expert Witnesses**

The overwhelming majority of all testimony given by expert witnesses is given in depositions. *Depositions: The Comprehensive Guide for Expert Witnesses* shows expert witnesses how to excel during their depositions.

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- How to successfully prepare for your deposition,
- How to set and collect your fee,
- Techniques for answering trick and difficult questions, and
- Much, much more.

Hardbound, 425 Pages; © 2007 | ISBN 978-1-892904-32-4

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*"I attended your SEAK training course in Naples, FL. Not only was it an exceptional training experience, but it has really jump started my work as an expert witness. Combining the course with the SEAK Directory utilization has probably increased my referrals about ten-fold."*

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## DEPOSITION, TRIAL, AND DAUBERT HEARING PREPARATION

Jim Mangraviti, Esq. and Steve Babitsky, Esq. make themselves available to experts to help prepare for key testimony. We have found, unfortunately, that all too often retaining counsel may not be willing to spend the time necessary to prepare their expert to testify. We have assisted expert witnesses who; Have encountered difficulty with their report and are worried about ruining their professional reputation; Are facing a very aggressive opposing counsel; Do not have extensive experience testifying; Are serving on a complex/high stakes case; Are dealing with a retaining counsel who refuses to properly prepare them; Are concerned about getting excluded under *Daubert* and having this end their careers. For more information please contact Jim Mangraviti ([jim@seak.com](mailto:jim@seak.com) or 978-276-1234).

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