

INTERACTING WITH THE JUDICIAL SYSTEM AS A PLAINTIFF, DEFENDANT OR EXPERT



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I have no financial disclosures.

However, I will mention several companies products. My connection to these companies is only as a satisfied customer.

LEARNING OBJECTIVES



- 1. Some lessons learned**
- 2. Understand the various aspects of a lawsuit**
- 3. Understand the duties of a medical expert**
- 4. Useful techniques when testifying**
- 5. How to get started as a medical expert**



WHY DON'T SHARKS EAT LAWYERS?

LESSONS LEARNED



- **Lawsuits are not resolved quickly**
- **It's not personal**

LESSONS LEARNED



- Lawsuits are a marathon, not a sprint
- It's not personal
- **Lawsuits are expensive**
- **For the attorney, it's a (serious) game of one upmanship**
- **Ignorance of the law is not a defense**
- **It's not who has the best case, but who tells the best story**



**What do you say if you see an attorney
buried in sand up to his neck?**

ANATOMY OF A LAWSUIT



Alleged harm occurs



Attorney hired



Lawsuit filed

**Medical
tribunal**



Discovery



Trial



**How many lawyers does it take to
change a light bulb?**

WHAT CONSTITUTES ACCEPTABLE EXPERT TESTIMONY? (DAUBERT CRITERIA)

Federal Rule 702:

A witness who is qualified as an expert by knowledge, skill, experience training or education may testify in the form of an opinion if:

1. The expert's scientific, technical or other specialized knowledge will help the trier of fact understand the evidence or determine a fact at issue
2. The testimony is based on facts or data
3. The testimony is product of reliable principles and methods and
4. The expert has reliably applied the principles and methods to the facts of the case

HOW I INTERPRET DAUBERT



Expert opinion:

- 1. should be based on an expert's training, education, experience,**
- 2. be consistent with the standards of care**
- 3. be supported by a body of peer reviewed science**
- 4. be stated to a degree of medical certainty**

WHY BECOME A MEDICAL EXPERT?



PROS:

- **It's interesting**
- **It has made me a better physician**
- **It pays well**
- **Satisfaction**

CONS:

- **Deadlines can be short**
- **It can be stressful**
- **Possible ethical conflicts**

DUTIES OF A MEDICAL EXPERT



- 1. Review records (always)**
- 2. Consult with hiring attorney (as needed)**
- 3. “Write” an affidavit (sometimes)**
- 4. Write a report (usually)**
- 5. Sit for a deposition (sometimes)**
- 6. Testify in court (sometimes)**

WHEN YOU TESTIFY:



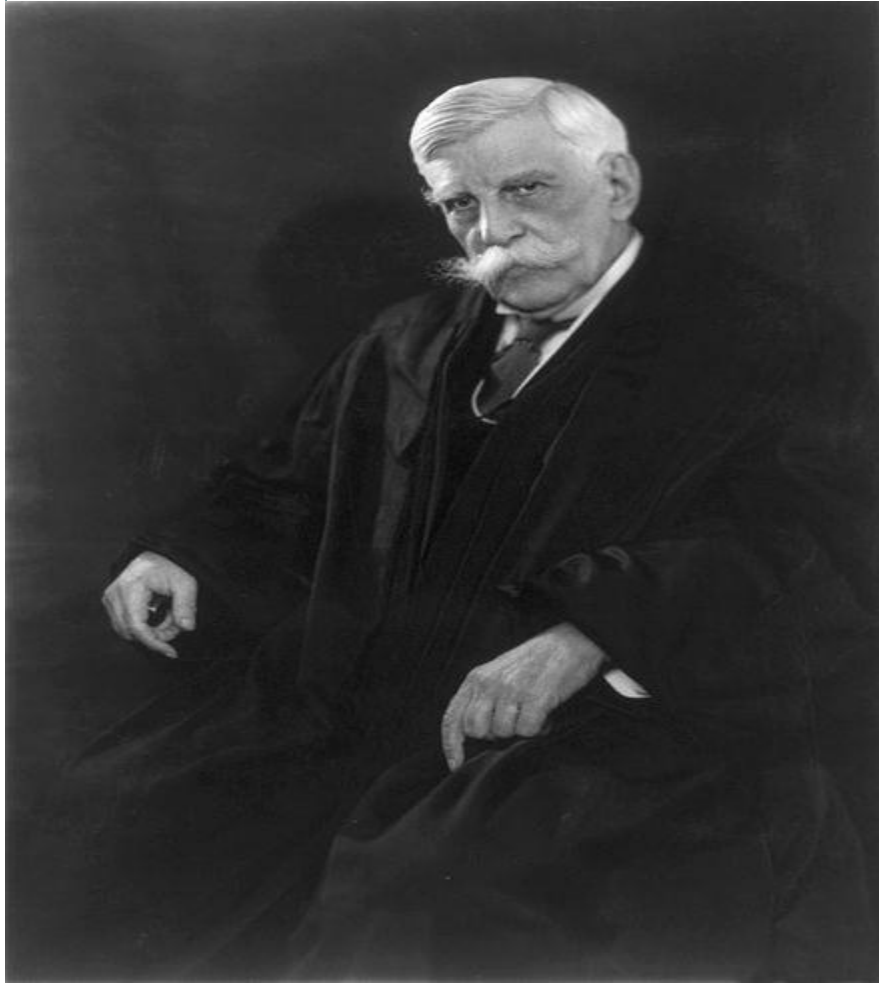
- 1. Prepare, prepare, prepare....**
- 2. Dress for success**
- 3. Tell the jury what they need to know, not what you want them to know**
- 4. Find ways to connect with jurors**
- 5. Pause before answering questions**
- 6. Assume counsel knows the answer when he/she asks a question**
- 7. Never start an argument with opposing counsel, but stick up for yourself and your opinion(s)**
- 8. Avoid words such as liability, negligence, malpractice, maybe, possibly**

GETTING STARTED AS AN EXPERT



- **STEP 1:** Have a “bullet proof” CV
- **STEP 2:** Review all your social media postings
- **STEP 3:** Advertise your expertise:
 - Create/update Linked In profile
 - SEAK (SEAKexperts.com): Searchable database of experts (subscription required)
 - Forensics Group (forensicsgroup.com)
 - Round Table Group (roundtablegroup.com)
 - TASA (TASAnet.com)
 - ProConsul, Inc (expertinfo.com)
 - Google?
- **STEP 4:** Additional training: (From SEAK):
 - Numerous books
 - Weekend seminars

Justice Oliver Wendell Holmes Jr.



“Lawyers spend
a great deal of
their time
shoveling
smoke.”