



# How to Handle the “Professional Witness”

*Expert testimony is not what it used to be!*

**T**he use of professional witnesses has become increasingly dangerous. *Qualifying & Attacking Expert Witnesses* shows you how to best utilize your own expert, as well as make opposing expert testimony work for you. You'll learn how to:

- Evaluate your expert witness needs
- Select a qualified expert
- Prepare your expert for deposition and trial
- Control expert witness costs
- Maximize your expert's testimony at trial

## Enhance Your Impeachment Skills

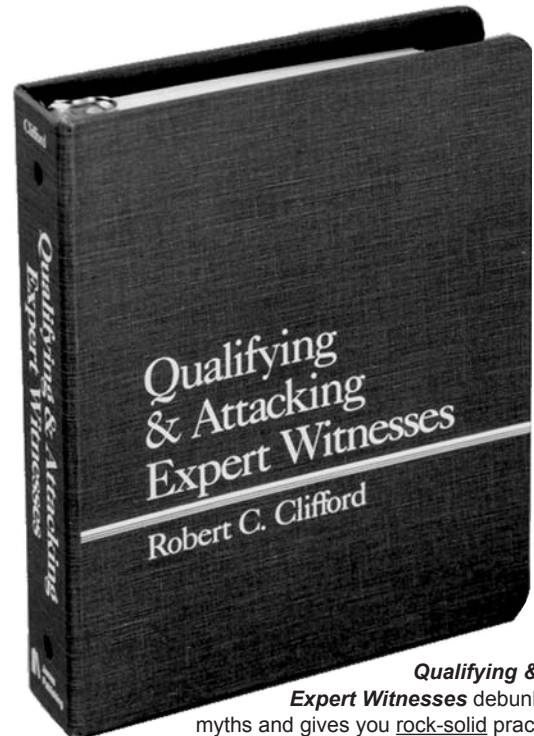
When your aim is to impeach your opponent's expert testimony, cross-examination is usually the most formidable strategy to weaken the impact of that testimony. *Qualifying & Attacking Expert Witnesses* shows you the best ways to get the most out of cross-examination and use your opponent's expert testimony to your advantage!

Author Robert C. Clifford uses dozens of case summaries to illustrate trends involving expert testimony. Mr. Clifford's expertise can help you develop a plan to challenge opposing experts by pointing out such key issues as:

- Establishing and timing a discovery plan
- Conducting depositions and interrogatories
- Preparing objections to direct testimony
- Disqualifying, cross-examining and impeaching your opponent's expert
- And much more!

## A Handy Courtroom Resource

This compact resource is sized and tabbed for quick courtroom reference. Packed with checklists, tips, samples, case citations and tactics, *Qualifying & Attacking Expert Witnesses* demonstrates how to utilize expert testimony to enhance your case and devalue your opponent's arguments. It's that complete.



*Qualifying & Attacking Expert Witnesses* debunks common myths and gives you rock-solid practice advice.

*myth*  
Experts are protected against malpractice claims through the litigation privilege.

*reality*  
If your client has an adverse result because of the negligence of a retained expert, review carefully the state of the law in your jurisdiction. Although traditionally experts have been afforded immunity by reason of the litigation privilege, there is a trend in some jurisdictions to construe the privilege narrowly and to impose liability on a careless expert. §170

### INSIDE:

- More answers to common myths about handling expert witnesses
- Update on the continuing effects of *Daubert v. Merrell-Dow*

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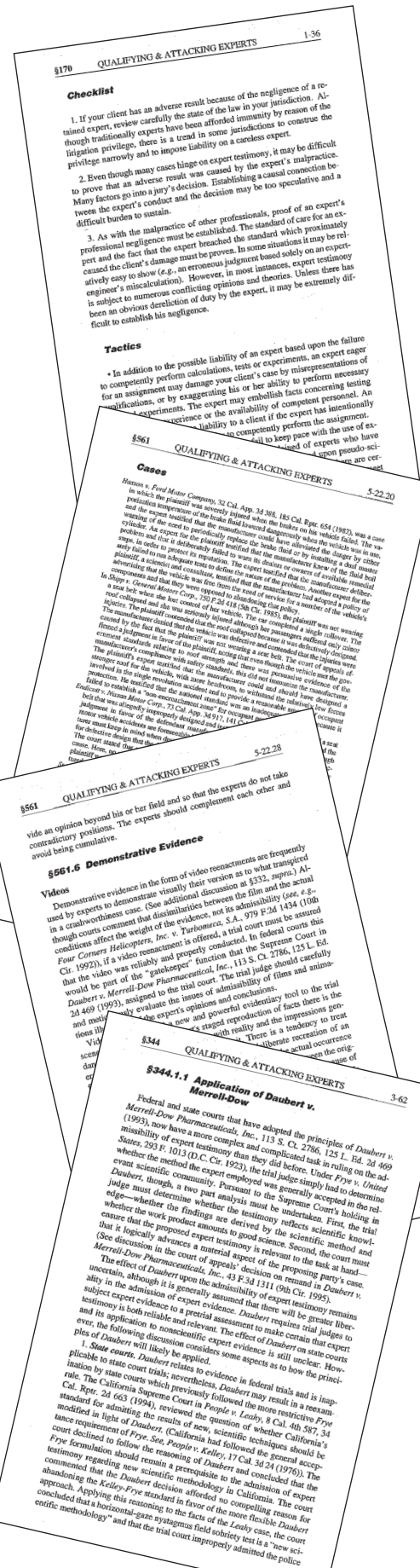
**Samples and Checklists**

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## Meet the Author

Robert C. Clifford is a past senior partner of an Oakland, California law firm where he specialized in general litigation, including real property disputes, personal injury litigation, insurance cases, contract disputes, will contests and estate matters.

Mr. Clifford is the author of *California Insurance Disputes*, *California Automobile Insurance Law*, *California Uninsured Motorist Law*, and the co-author of *California Trial Techniques* (all from Lexis).

## About the Book

*Qualifying & Attacking Expert Witnesses* contains more than 700 pages in an attractive, linen-covered 3-ring binder, providing for easy updating. The book measures 8" x 9" and is tabbed for quick reference in the courtroom. You'll stay on top of the latest expert witness strategies with annual updates.

## Risk-Free Offer

Examine *Qualifying & Attacking Expert Witnesses* at no charge for 30 days. If you are not convinced that this book will help improve your use of experts, simply return the unmarked book at our expense. You will owe nothing. If you pre-paid your order, full payment will be refunded promptly — no questions asked. That's the James Publishing guarantee.

*This practical guide is loaded with time-saving tips, checklists and tactics you can use now!*

## The Lingering Impact of *Daubert v. Merrell-Dow*

- How to determine whether *Daubert* applies to your non-scientific testimony
- The importance of the expert's methodology, and suggested tactics for attacking it
- The risks of using scientific evidence prepared solely for litigation
- The standard of review of a trial court's decision to admit expert testimony
- And much more!

myth

*Attacking the opposing expert's ultimate argument during cross-examination is the best way to minimize its effectiveness.*

reality

*If you attempt a direct assault on the expert's main opinion, you may simply be offering him a forum in which to restate and expand his opinion, giving him the opportunity to provide unelicited reasons for his opinion.*

*Instead, you should seek to probe weaknesses in related areas during cross-examination. Also consider asking if his opinion would be affected if the facts upon which he based his opinion were modified. §431*

myth

*It is always to trial counsel's advantage to have the expert state all the bases of his or her opinion.*

reality

*It is effective if your expert provides the jury with all of the bases upon which his opinion is based. However, you may ask your expert to state his opinion without providing the basis for it, which presents opposing counsel with the dilemma of whether or not to cross-examine the expert and risk receiving unfavorable testimony. §330*

myth

*It does not matter whether I depose my expert or the opposing expert first.*

reality

*In many situations, it is desirable to depose the opponent's expert prior to the deposition of your expert. This tactic commits the opposing expert to particular testimony, and enables counsel to attack the theory promptly and to prepare his own expert for deposition.*

*In delaying your discovery until the opposing side has proceeded, you may discern from the questions asked the opponent's theory and the direction their expert testimony might take. However, you may also want to seek to have your own expert's deposition taken first, if you feel your expert could influence a favorable settlement or if you want to educate the opposing side as to problems that he has in the case. §412*

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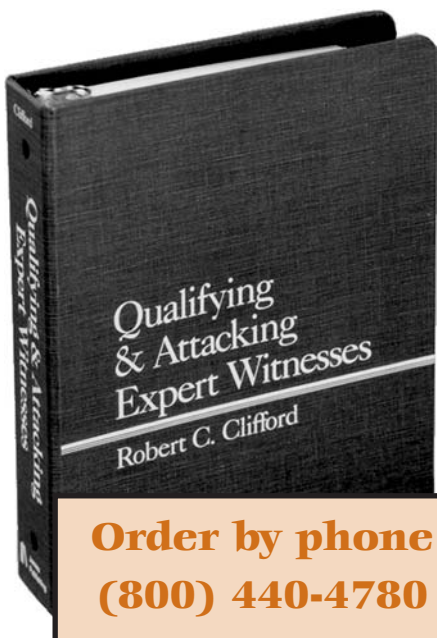
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# How to Attack Opposing Experts

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Let *Qualifying & Attacking Expert Witnesses* show you how to dig deep for unreliable testimony, no matter how sterling the expert's credentials. The book covers these

frequently fruitful attacks:

- Other causes
- Subjective testing
- Insufficient sample
- Temporal relationship
- Erroneous extrapolation
- Research prepared for litigation
- And others

Sample pages, table of contents, and more inside...