

# HOW TO QUALIFY AN EXPERT WITNESS

— *A Sample Voir Dire* —

A man in a dark suit and glasses stands with his back to the camera, looking towards the entrance of a large, modern building at night. The building has several glass doors and windows, some of which are illuminated from within. The scene is set on a city street with a sidewalk and a road in the foreground. The overall atmosphere is professional and serious.

## INTRODUCTION

One of the most important aspects of working with an expert witness in litigation is making sure that your expert gets properly qualified to testify in court. This white paper will serve as a guide to assist you with qualifying an expert witness.



## THE IMPORTANCE OF RULE 702

Rule 702 of the Federal Rules of Evidence gives us the basis for an expert's opinion.



## THE IMPORTANCE OF 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 or otherwise if:*

- The expert's scientific, technical, or other specialized knowledge will help the trier of fact to **understand** the evidence or to determine a fact in issue
- The testimony is based on **sufficient** facts or data
- The testimony is the product of **reliable** principles and methods
- The expert has reliably **applied** the principles and methods to the facts of the case





## THE IMPORTANCE OF RULE 702

Looking at rule 702, it is particularly important that the expert **describe the process** by which they came to their conclusion. If the expert is testifying to the findings of a scientific study, the expert should:

- **Explain** the process of how the study was conducted and if it produces repeatable results
- **Reference** that in conducting the experiment, they used principles or methods accepted within the scientific community
- **Be trained** in the Daubert standard and how to lay a foundation to make their testimony and methods admissible in a Daubert hearing

## PREPARING YOUR EXPERT FOR COURT

You should always ask your expert to prepare a report before you get into the courtroom. This report should discuss all the different documents or references that the expert considered in order to form an opinion, and will serve as a guide for the expert's testimony at trial.

Remember that the expert's report will generally not be admissible into evidence but can be used to **refresh the expert's memory** if he or she forgets parts of their testimony.



## THE VOIR DIRE

Voir Dire is the procedure by which an expert witness is qualified. This consists of both a **direct examination** by the person offering the witness as an expert and a **cross-examination**.

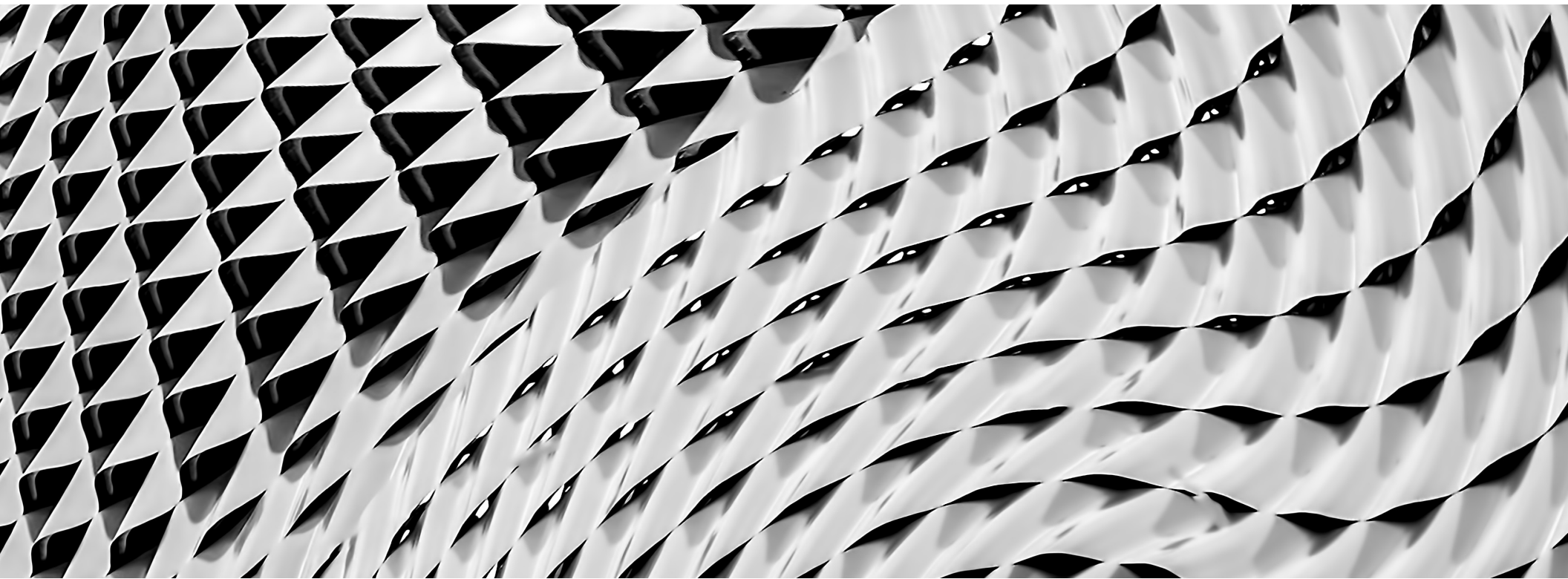




## GETTING STARTED

A good way to begin is to introduce the expert to the judge or jury and go through the expert's resume to establish them as having an extensive background in education and work experience in the subject that you want to qualify them as in expert.

Remember, expert witnesses need a **scope of expertise** and cannot be just general experts.



## SAMPLE VOIR DIRE

The following is a sample Voir Dire that can be used in qualifying an expert witness.

This voir dire **should be altered** depending on the type of expert you are using.

**QUESTIONS**

**BASIC INFORMATION**

- Please state your name.
- Do you have a resume? (Admit resume into evidence.)

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**CURRENT EMPLOYMENT**

- Where do you work?
- What is your title there?
- How long have you been at this job?
- What are some of your duties at this place of employment?

.....

**PREVIOUS EMPLOYMENT**

- Please list your previous places of employment.
- What are the titles of each position you previously held?
- Please state the duties you had at each of your previous positions.
- What type of scientific or technical studies have you conducted?





**QUESTIONS**

**EDUCATION**

- Where did you attend school?
- What degrees do you possess?

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**ACCOLADES / PRESENTATIONS**

- Have you given any lectures?
- Are you a member of any professional associations?
- Have you received any honors or awards?

.....

**TECHNICAL BACKGROUND**

- What specific training do you have in the area of your specialty?
- Do you have any publications or research?
- Has your work been peer reviewed?
- What licenses do you possess?
- How long have you had those licenses?
- Do you have any board certifications?
- If so, how long have you had those certifications?



## QUESTIONS

### DEPOSITION / TRIAL PREPARATION

- Did you prepare a report in this case?
- Can you please explain the materials that you reviewed in creating your report?
- After you completed your report, did you arrive at a conclusion?
- Please describe the specific facts and data that you relied on in coming to your conclusion.
- Please describe the scientific or technical principles or methods that you used in coming to your conclusion.
- Please describe the way that you relied on those principles or methods.
- Are the specific scientific or technical principles or methods that you used in coming to your conclusion widely used in your field?
- Do you believe your testimony will assist the judge or jury understand the facts of this case?

## CONCLUSION

*“Your honor, at this time I tender this witness as an expert  
in the field of (state specific field of expertise).”*





**EXPERT**  
INSTITUTE

NEW YORK CITY | LOS ANGELES | DALLAS

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[www.theexpertinstitute.com](http://www.theexpertinstitute.com)

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[info@theexpertinstitute.com](mailto:info@theexpertinstitute.com)  
888-858-9511

