

HOW EXPERTS CAN OBTAIN MORE REPEAT AND WORD OF MOUTH BUSINESS

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The single most effective way for experts to increase their word of mouth referrals and repeat business is to improve their work product. After working with thousands of expert witnesses from innumerable disciplines, the two key lessons that we have learned are:

- Most experts overestimate the quality of their work product by rating it higher than it actually is, and
- Many experts believe that retaining counsel can be relied on to tell them specifically what they did right and wrong and how they can improve for the next assignment.

CRITICALLY EVALUATING YOUR OWN WORK PRODUCT

It is a mistake for experts to try to evaluate the quality of their own work product. It is human nature for all of us to think we are above average. Even expert witnesses who are above average should not be satisfied with this level of competence. Exceptional expert witnesses continually strive to improve. Having reviewed countless expert reports and deposition transcripts we have found that almost all experts can improve the quality of their work product. Very often rapid improvements can be made by the expert once they are provided with some simple suggestions. Having one or two reports and or deposition transcripts critiqued by experienced counsel often results in dramatic improvement in the quality of the expert's work products.

Example #1

We recently were asked by an experienced and well-credentialed expert to critique one of his eight page reports. We provided a page by page critique of the report (this happened to be a closed case) and offered 32 specific ways the expert could improve the next report he did, for example

- A timeline or chronology of the crucial events would help the reader.
- When listing documents reviewed it is good practice to list the dates and full citations.
- Precision is one of the keys to effective report writing. Your vague listings "medical records", "drug information", and "legal file" should be expressed with more specificity.
- Subjective comments used such as "dramatic" and "tediously" are your characterizations and may tend to indicate bias on your part.

There is no question that this feedback will help this expert to improve his future reports.

Example #2

We are often asked to review deposition transcripts of expert witnesses to help them improve their deposition techniques. In a recent 60 page transcript provided by a highly credentialed expert, we were able to offer 34 specific suggestions on how he can improve for the next deposition he will give. For example:

- Page 3, Line 7: You need to be able to answer questions about your forensic income simply and directly, without rambling
- Page 5, Line 12: Your answer would have been more effective if you put a period after the word “no.”
- Page 29, Line 6: When counsel says “ok” this is not a question that requires an answer.
- Page 32, Line 14: The power of your opinion is undercut by the vague phrase “apparently behaved inappropriately.”

These suggestions were particularly helpful as they targeted specific bad habits the expert had developed when being deposed.

WHY RETAINING COUNSEL WILL NOT HELP

Experts sometimes believe that retaining counsel will point out all of the problems in their reports and depositions. Most retaining counsel concentrate like a laser on one thing and one thing only: winning the case they are working on. They do not feel it is their job to teach the expert how he or she can improve their work product. This is especially true if counsel is disappointed with the expert and does not plan to use them again. Retaining counsel simply does not have the time or inclination to carefully review a report or deposition transcript in a closed case in order to help the expert improve their future work product.

When experts ask for feedback counsel often takes the path of least resistance and offers praise or some general comments for the expert. Simply put, there is no reason for counsel to explain all of the problems and reasons why he would not use the expert again.

CONCLUSION

Experts who do not obtain over 75% of their forensic work from word of mouth and repeat business should consider that the reason for this may be the quality of their work product. Experts who are looking for more work may want to consider having experienced counsel take a long hard look at their reports and deposition transcripts to offer suggestions for improvement.

About the Authors Steven Babitsky, Esq. and James J. Mangraviti, Esq. specializing in training expert witnesses how to write better reports and to excel while testifying. For more information, please visit www.testifyingtraining.com.