

*Be a Better & More Successful Expert Witness*



1-Day *Testifying Skills Workshop*  
*and*  
1ST ANNUAL CALIFORNIA  
2-Day *Expert Witness Summit*

*March 13-15, 2003*

*Hyatt Newporter Hotel  
Newport Beach, California*



FORENSIC CONSULTANTS ASSOCIATION  
ORANGE COUNTY CHAPTER  
LOS ANGELES CHAPTER  
NORCAL CHAPTER

# Testifying Skills Workshop

## Summary

An expert's value ultimately depends on his or her ability to excel when testifying. Testifying Skills Workshop is a hands-on interactive program which has been carefully designed to show experts exactly what to do, and what not to do when testifying. It features concise didactic presentations combined with numerous mock trial and deposition demonstrations using volunteer attendees. Each demonstration is critiqued by the faculty, who point out where the expert was most effective and where improvement is most needed. The fact patterns, CVs, difficult questions, and reports used in the demonstrations will be submitted in advance by attendees. There will be ample time for questions and answers. Experts will also learn how to maintain high ethical standards, premium fee setting, billing, and collection techniques and how to successfully and professionally market themselves.

## Learning Objectives

At the completion of this seminar you will be able to:

- Connect with and persuade the jury
- Update and improve your fee setting and collections procedures
- Understand counsel's trick questions and trial tactics and how to defeat them
- Be confident and effective during cross-examination
- Better market yourself
- Understand how optimum deposition testimony techniques differ from those which should be used at trial
- Be more ethical and be a more credible witness
- Understand how to better defend your reports and qualifications under cross-examination
- Be a better and more successful expert witness
- Answer difficult questions artfully

## Faculty

The Workshop is presented by Steven Babitsky, ESQ, and James J. Mangraviti, Jr., ESQ, both of SEAK, Inc. See complete professional information, page 14.



# March 13, 2003

## Testifying Skills Workshop—Overview

**THURSDAY, MARCH 13, 2003**

7:00 AM – 8:00 AM	REGISTRATION AND CONTINENTAL BREAKFAST
8:00 AM – 8:45 AM	How To Bulletproof Your C.V.
8:45 AM – 9:30 AM	How To Bulletproof Your Expert Report
9:30 AM – 10:15 AM	Depositions: Special Techniques
10:15 AM – 10:30 AM	Break and Networking Opportunity
10:30 AM – 11:00 AM	Ethics
11:00 AM – 12:00 PM	Premium Fee Setting, Billing and Collections Techniques
12:00 PM – 1:30 PM	LUNCH (PROVIDED)
1:30 PM – 2:15 PM	Direct Examination: Persuading The Jury
2:15 PM – 3:00 PM	Cross-Examination: Bending But Not Breaking
3:00 PM – 3:15 PM	Break and Networking Opportunity
3:15 PM – 4:00 PM	Marketing Your Services in a Professional, Dignified Manner
4:00 PM – 4:30 PM	Trick and Difficult Questions

## Registration Information

The tuition includes continental breakfast, breaks, lunch, detailed seminar manual, and a unique and practical hands-on learning experience. *This seminar is approved for 7 hours MCLE credit by the State Bar of California.* We expect this seminar to sell out early. To register, see page 15.

# Testifying Skills Workshop

7:00 AM – 8:00 AM

REGISTRATION AND CONTINENTAL BREAKFAST

8:00 AM – 8:45 AM

## How To Bulletproof Your C.V.

Attendees will learn how counsel will attempt to challenge their qualifications during cross-examinations. Artful responses that meet these challenges will be suggested.

Volunteer attendees will be cross-examined on their pre-submitted C.V.s.

*Cross Examination Demonstration. Questions and Answers.*

8:45 AM – 9:30 AM

## How To Bulletproof Your Expert Report

Attendees will learn how experienced counsel will attempt to pick apart their expert report. Advanced techniques to blunt counsel's pointed questions will be provided and demonstrated.

Volunteer attendees will be cross-examined on their pre-submitted reports.

*Cross Examination Demonstration. Questions and Answers.*

9:30 AM – 10:15 AM

## Depositions: Special Techniques

Attendees will learn the special techniques which should be used when testifying at transcribed and videotaped depositions. Included is an explanation of what questions experts are likely to be asked at deposition and why they are likely to be asked those questions,

the rules the attorneys must play by at deposition, and how the expert deposition fits into both side's case. *Deposition Demonstrations. Questions and Answers.*

10:15 AM – 10:30 AM

BREAK AND NETWORKING OPPORTUNITY

10:30 AM – 11:00 AM

## Ethics

Attendees will learn how to maintain their integrity and credibility while participating in an adversarial judicial system. The solutions to common ethical problems will be discussed.

*Direct Examination Demonstration. Questions and Answers*

11:00 AM – 12:00 PM

## Premium Fee Setting, Billing and Collections Techniques

Attendees will learn how to appropriately set their rate, what expenses to charge for, how to protect themselves from last-minute cancellations and how to insure that their time is paid for in full and on time.

*Questions and Answers.*



# March 13, 2003

**12:00 PM – 1:30 PM** LUNCH (PROVIDED)

**1:30 PM – 2:15 PM**

## *Direct Examination: Persuading The Jury*

Attendees will learn how to best connect with and persuade a jury. Techniques explained and demonstrated include speaking in laymen's terms, acting as a "teacher," using proper body language and demeanor, and how and when to use demonstrative evidence. *Direct Examination Demonstrations. Questions and Answers.*

**2:15 PM – 3:00 PM**

## *Cross-Examination: Bending But Not Breaking*

Attendees will learn how to stand up to even the most withering of cross-examinations. Faculty will explain the goals of counsel during cross-examination and the trick questions and trial tactics that are commonly used. Techniques for deflecting counsel's attacks and excelling during cross-examination will be provided. *Cross Examination Demonstrations. Questions and Answers.*

**3:00 PM – 3:15 PM** BREAK AND NETWORKING OPPORTUNITY

**3:15 PM – 4:00 PM**

## *Marketing Your Services*

Attendees will learn how to promote their availability for litigation support assignments utilizing proven techniques. *Questions and Answers.*

**4:00 PM – 4:30 PM**

## *Trick and Difficult Questions*

Attendees will be asked the key difficult and trick questions that they can expect to encounter during cross-examination. Truthful and artful replies to these questions will be discussed and demonstrated. *Cross Examination Demonstrations. Questions and Answers.*

*This workshop is approved for 7 hours MCLE credit by the State Bar of California.*

# Expert Witness Summit

## Summary

Expert witnesses from all fields will benefit from multi-disciplinary advanced learning techniques. Nationally recognized attorneys, experts, judges, and educators will discuss multiple aspects of expert witness testimony, ethics, trial techniques, and practice management. Seminar participants will be presented with practical suggestions for succeeding as expert witnesses. This advanced two-day program will include lectures, trial demonstrations, lively question and answer periods, and roundtable discussions where participation by seminar attendees is encouraged. Seminar registrants will have an opportunity to improve their skills while networking and meeting other professionals in a stimulating and congenial atmosphere. Each presenter will conclude his session with questions and answers.

## Faculty

The Summit sessions will be presented by both local and national experts in legal and expert witness arenas. See complete professional information, pages 12–13.

- Terrance Baker, MD
- Allan J. Colman, PhD
- Steven C. Gabrielson, CPA, CVA
- The Honorable C. Robert Jameson
- Jeffrey J. Kroll, JD
- The Honorable David Thomas McEachen
- Jeffrey A. Milman, JD
- Jeffery J. Warren, PhD, PE, CSP

## Registration Information

The tuition includes continental breakfast each day, breaks, lunch, seminar materials, and a Wine & Cheese Reception on Friday evening. *This seminar is approved for 12 hours MCLE credit by the State Bar of California.* We expect this seminar to sell out early. To register, see page 15.



# March 14-15, 2003

## *Expert Witness Summit—Overview*

### **FRIDAY, MARCH 14, 2003**

7:30 AM – 8:30 AM	REGISTRATION AND CONTINENTAL BREAKFAST
8:30 AM – 9:30 AM	The Biggest Mistakes Experts Make...
9:30 AM – 10:30 AM	Opinions: Forming, Presenting & Defending...
10:30 AM – 11:30 AM	Impeaching the Expert: How Attorneys Do It
11:30 AM – 12:00 PM	Roundtable Discussion
12:00 PM – 1:30 PM	LUNCH (PROVIDED)
1:30 PM – 2:30 PM	Expert Witness Effectiveness
2:30 PM – 3:30 PM	Effective Presentation of Expert Testimony
3:30 PM – 4:15 PM	Selecting and Pleasing the Best Clients
4:15 PM – 4:30 PM	Roundtable Discussion
5:00 PM – 6:00 PM	WINE & CHEESE RECEPTION

### **SATURDAY, MARCH 15, 2003**

7:30 AM – 8:30 AM	CONTINENTAL BREAKFAST
8:30 AM – 9:30 AM	A View From the Bench
9:30 AM – 10:30 AM	Demonstrative Evidence and Expert Witnesses
10:30 AM – 11:30 AM	Avoiding Abuse as an Expert...
11:30 AM – 12 PM	Roundtable Discussion
12:00 PM – 1:30 PM	LUNCH (PROVIDED)
1:30 PM – 2:30 PM	Civil and Criminal Liability of Experts
2:30 PM – 3:30 PM	Cross-Examination: Bending But Not Breaking
3:30 PM – 4:15 PM	Practice Management Skills for Experts
4:15 PM – 4:30 PM	Roundtable Discussion

# Expert Witness Summit

**FRIDAY, MARCH 14, 2003**

**7:30 AM – 8:30 AM**

REGISTRATION AND CONTINENTAL BREAKFAST

**8:30 AM – 9:30 AM**

## *The Biggest Mistakes Experts Make and How to Avoid Them*

*The Honorable C. Robert Jameson*

Judge Jameson will review common mistakes expert witnesses make in presenting testimony. He will discuss how and why those mistakes occur. Judge Jameson will explain the impact those mistakes have on the fact finder, be that fact finder a jury or a judge. Judge Jameson will offer practical advice on how to give effective testimony while avoiding those mistakes. *Questions and Answers.*

**9:30 AM – 10:30 AM**

## *Opinions: Forming, Presenting and Defending Your Opinion*

*Terrance Baker MD*

Dr. Baker will discuss how to formulate your opinion from a position of strength. He will explain and demonstrate the best techniques for forming, presenting, and defending your opinion in reports and at deposition and trial. *Questions and Answers.*

**10:30 AM – 11:30 AM**

## *Impeaching the Expert: How Attorneys Do It*

*Jeffrey A. Milman JD*

Attorney Milman will discuss common themes and techniques utilized by top American trial lawyers in impeaching expert witnesses during cross-examination. He will demonstrate use of authoritative textbooks and articles as an effective means of impeachment. Attorney Milman will explain techniques that can be used by expert witnesses in successfully dealing with impeachment, and he will offer practical advice to experts on how to turn the impeachment strategy of the opposing attorney to your advantage in cross-examination. Demonstrations will be used to make key points. *Questions and Answers.*

**11:30 AM – 12:00 PM**

ROUNDTABLE DISCUSSION

**12:00 PM – 1:30 PM**

LUNCH (PROVIDED)



# March 14-15, 2003

**1:30 PM – 2:30 PM**

## *Expert Witness Effectiveness*

*Dr. Allan H. Colman*

Dr. Colman will present a lively program on seeing yourself through jurors' eyes. Discussion will range from determining the goal for each witness's presentation to educating them about the courtroom environment. He will review the importance of developing key messages tied to ten components of effective communication and then will place primary focus on the Witness Performance Matrix, designed to help trial lawyers understand where their witnesses are based and where they might need improvement—from Passive to Aggressive, from Non-Disclosing to Over-Disclosing. The program will conclude with video clips showing styles of Witness Performance. *Questions and Answers.*

**2:30 PM – 3:30 PM**

## *Effective Presentation of Expert Testimony*

*Steven C. Gabrielson CPA, CVA*

Mr. Gabrielson will demonstrate how to articulate complex technical information to lawyers, judges, and juries. He will explain how to effectively teach an audience of widely varying levels of education, experience, or familiarity with scientific methodology. Mr. Gabrielson will describe techniques for organizing and delivering expert testimony, as well as some practices which should not be used. His topics include oral interpretation of charts and graphs, appropriate level of jargon, significance of simple numbers, use of anecdotes and analogies, extent of scholarly rigor, the expert's personal believability, and the value of easily remembered phrases. *Questions and Answers.*

**3:30 PM – 4:15 PM**

## *Selecting and Pleasing the Best Clients*

*Terrance Baker MD*

Dr. Baker will discuss the "best" types of cases and clients and the ones to stay away from. He will explain how and why to be selective with the lawyers you choose to work with. Dr. Baker will review how to please clients in an ethical fashion. *Questions and Answers.*

**4:15 PM – 4:30 PM**

ROUNDTABLE DISCUSSION

**5:00 PM – 6:00 PM**

WINE & CHEESE RECEPTION

# Expert Witness Summit

**SATURDAY, MARCH 15, 2003**

**7:30 AM – 8:30 AM**

CONTINENTAL BREAKFAST

**8:30 AM – 9:30 AM**

## *A View From the Bench*

*The Honorable David Thomas McEachen*

Judge McEachen will discuss in clear and understandable terms how expert testimony can most effectively be delivered and utilized in the trial process. Judge McEachen will review the credibility of expert witnesses from the judicial perspective and what type of testimony does and does not impress a judge and jury. Judge McEachen will provide practical suggestions for experts on how to improve the quality and effectiveness of their testimony. *Questions and Answers.*

**9:30 AM – 10:30 AM**

## *Demonstrative Evidence and Expert Witnesses*

*Jeffrey J. Kroll ESQ*

Attorney Kroll will explain how attorneys use demonstrative evidence with expert witnesses to persuade a judge and jury. He will also show how to maximize damages using demonstrative evidence. Attorney Kroll will demonstrate, with the use of videotape, models, and a computer, how to simplify complex issues so that they are easily understandable for juries. He will discuss the expert's role in preparing and working with demonstrative evidence. *Questions and Answers.*

**10:30 AM – 11:30 AM**

## *Avoiding Abuse as an Expert: Retention, Assignment, Deposition and Trial*

*Jeffery H. Warren PhD, PE, CSP*

Dr. Warren will offer suggestions on how to work with an attorney when he/she wants to retain you, and how to ensure that the expert and the attorney fully understand each other's roles from retention to trial. He will define abuse and offer practical suggestions for how to deal with this type of conduct. With the help of members of the audience, Dr. Warren will provide an opportunity to observe good and poor responses to abusive questions and will conduct some communication drills which provide training in responding to abusive and trick questions asked at deposition or during cross-examination. Demonstrations will be utilized to make key points. *Questions and Answers.*



# March 14-15, 2003

**11:30 AM – 12:00 PM**      **ROUNDTABLE DISCUSSION**

**12:00 PM – 1:30 PM**      **LUNCH (PROVIDED)**

**1:30 PM – 2:30 PM**

## *Civil and Criminal Liability of Experts*

*The Honorable David Thomas McEachen*

Judge McEachen will discuss the developing trend holding expert witnesses civilly and criminally liable for mistakes, negligence, defamation, spoliation of evidence, and perjury. Judge McEachen will explore professional discipline for testifying experts and will provide practical risk management strategies and techniques for experts. *Questions and Answers.*

**2:30 PM – 3:30 PM**

## *Cross-Examination: Bending But Not Breaking*

*Jeffrey J. Kroll ESQ*

Attorney Kroll will explain how to best deal with cross-examination at deposition and trial. This will be followed by hands-on demonstrations. In these demonstrations, Attorney Kroll will examine volunteer attendees on fact patterns which were pre-submitted by the volunteer attendees. The cross-examination best practices will be developed at the conclusion of the session. *Questions and Answers.*

**3:30 PM – 4:15 PM**

## *Practice Management Skills for Experts*

*Jeffery H. Warren PhD, PE, CSP*

Dr. Warren will discuss and offer insight on how to best organize your expert witness practice as a professional and ethical business. He will review and offer practical advice on fee setting, billing, and collection. Dr. Warren will offer advice based on practical experience on how to market your expert witness practice ethically, economically, and professionally. He will discuss how to build a premiere forensic practice. *Questions and Answers.*

**4:15 PM – 4:30 PM**      **ROUNDTABLE DISCUSSION**

*This workshop is approved for 12 hours MCLE credit by the State Bar of California.*

# Summit Faculty

**Terrance Baker, MD**, is an attending emergency room physician at Good Samaritan Hospital and forensic expert in Baltimore, Maryland. He received his BS and MS from Johns Hopkins University and his MD from the George Washington University School of Medicine. Dr. Baker is board certified in Forensic Medicine, Family Practice, Geriatrics, and Emergency Medicine. Dr. Baker is a former medical examiner of the city of Newport News, Virginia. Dr. Baker has served as a forensic medical expert for trial attorneys, defense attorneys, judges, district attorneys, and public defenders throughout the United States. Dr. Baker also has served as a forensic medical expert for the South Carolina Board of Medical Examiners, the Joint Underwriters Association, and the Carolina Peer Review Organization. Dr. Baker has written and lectured extensively on expert witness issues.

**Dr. Allan H. Colman** is a Senior Vice President with DecisionQuest, a nationwide trial consulting and strategic communications firm based in Torrance, California, with 15 offices throughout the United States. He received his BA from Lafayette College and his Master's and Doctorate Degrees from New York University. Dr. Colman has written and lectured extensively on jury analysis, visual communications, and expert witnesses. His latest book, *Decision By Trial*, was published by LexisNexis.

**Steven C. Gabrielson, CPA, CVA**, is President and Director of Litigation Services, Haynie & Company in Newport Beach, California. He received his BS from Drake University and is a Certified Public Accountant (CPA) and Certified Valuation Analyst (CVA). Mr. Gabrielson has written and lectured extensively on litigation and expert testimony. Mr. Gabrielson is a highly experienced expert witness.

**Honorable C. Robert Jameson** is the Supervising Judge, Complex Civil Litigation, in Orange County Superior Court. Judge Jameson received his BA in Political Science from the University of California, Davis, and his JD from Hastings College of the Law. Judge Jameson is a former District Attorney, private practitioner, and Adjunct Professor of Law at Whittier Law School. Judge Jameson has been on the bench for the past 17 years. Judge Jameson has been honored as "Judge of the Year" by nine different boards, bar associations, and professional groups.

**Jeffrey J. Kroll, Esq.**, is a partner and trial attorney in the Clifford Law Offices in Chicago, Illinois. He received his BS and JD from DePaul University. Attorney Kroll has taught trial advocacy at Northwestern School of Law and DePaul University College of Law. He has written and lectured extensively on all aspects of personal injury litigation, trial techniques, and jury presentation. Attorney Kroll has obtained numerous multi-million dollar verdicts and settlements for his clients.

**Honorable David Thomas McEachen** is the Assistant Presiding Judge of the Orange County Superior Court. He received his BS from Oregon State University and his JD from Southwestern University School of Law. Judge McEachen served two tours of duty in Vietnam. Judge McEachen is a former Judge of the Year, Orange County Trial Lawyers Association, and he is an Instructor at the Expert Witness Certificate Program at CSULB.

**Attorney Jeffrey A. Milman** is a partner and a trial attorney in the Newport Beach, California, law firm of Lopez, Hodes, Restaino, Milman & Skikos. He received his BA from California State University Fullerton and his JD from the University of San Diego School of Law. Attorney Milman has written and lectured extensively on trial practice, experts, and litigation. Attorney Milman is a Judge Tempore, Orange County Superior Court and an instructor, College of Trial Advocacy, Orange County Bar Association. He is on the Executive Board of the Orange County Trial Lawyers Association.

**Jeffery H. Warren, PhD, PE, CSP**, is CEO and Chief Engineer for The Warren Group in Columbia, South Carolina. Dr. Warren received his BS in Mechanical Engineering from the University of North Carolina at Charlotte and his MS and PhD in Mechanical Engineering from Virginia Polytechnic Institute and State University. Dr. Warren has written and lectured extensively on products liability, expert witnessing, machine safeguarding, and safety. Dr. Warren is an experienced expert witness and Chief Engineer of The Warren Group performing consulting and training related to machinery and equipment claims and unintentional injuries, vehicle accident reconstruction, and fires and explosions.

# Workshop Faculty

**Steven Babitsky, Esq.**, is the President of SEAK, Inc. Mr. Babitsky trains hundreds of experts every year. He was a personal injury trial attorney for twenty years and is the former managing partner of the firm Kistin, Babitsky, Latimer & Beitman. Mr. Babitsky is the co-author of the texts *Writing and Defending your Expert Report: The Step-by-Step Guide With Models*, *How to Excel During Cross-Examination: Techniques for Experts That Work*, *The Comprehensive Forensic Services Manual: The Essential Resources for All Experts*, and *How to Excel During Depositions: Techniques for Experts That Work*. Attorney Babitsky is the co-developer and trainer for the “Testifying Skills Workshop” seminar, the seminar leader for the National Expert Witness and Litigation Seminar, and the scriptwriter for the videos “How to Be an Effective Medical Witness” and “The Expert Deposition: How to Be an Effective and Ethical Witness.”

**James J. Mangraviti, Jr., Esq.**, has trained hundreds of expert witnesses across the United States and Canada. He is a former trial lawyer with experience in defense and plaintiff personal injury law and insurance law. He currently serves as Vice President and General Counsel 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 *SEAK Law School for Physicians*, *Law School for the Safety and Health Professional*, *The Independent Medical Examination Report: A Step-by-Step Guide With Models*, *Writing and Defending your Expert Report: The Step-by-Step Guide With Models*, *The Successful Physician Negotiator: How to Get What You Deserve*, *How to Excel During Cross-Examination: Techniques for Experts That Work*, *How to Excel During Depositions: Techniques for Experts That Work*, and *The Comprehensive Forensic Services Manual: The Essential Resources for All Experts*.

## Seminar Venue

### Hyatt Newporter Hotel

1107 Jamboree Road, Newport Beach, California

Situated among 26 landscaped acres near Pacific Coast Highway, the Hyatt Newporter has long been considered a Newport Beach landmark and the area’s premier resort destination. Features: lighted championship tennis courts; a nine-hole, par-three golf course; three heated pools with whirlpools; fitness center with bicycles, rowing machines and Universal equipment. **Room Rates:** Please call the hotel directly at 949.729.1234 to make your room reservations—FCAOC rate of \$149 per room (single/double) guaranteed if you reserve before February 24.

# Registration Form (PLEASE TYPE OR PRINT LEGIBLY)

Please complete this form and mail, with your check, to the address below.

## MARCH 13—Testifying Skills Workshop (Please select category)

- \$345 FCAOC Member       \$445 Non-Member (By Feb 28)  
 \$395 FCAOC Member       \$495 Non-Member (After Mar 1)

## MARCH 14-15—Expert Witness Summit (Please select category)

- \$645 FCAOC Member       \$745 Non-Member (By Feb 28)  
 \$695 FCAOC Member       \$795 Non-Member (After Mar 1)

## SPECIAL SAVINGS ON BOTH SEMINARS: "Workshop" plus "Summit"

- \$845 FCAOC Member       \$945 Non-Member (By Feb 28)  
 \$895 FCAOC Member       \$995 Non-Member (After Mar 1)

## Friday Evening: Wine & Cheese Reception

- \$50 Spouse/Guest

## Registration Information

NAME \_\_\_\_\_ TITLE \_\_\_\_\_

SPOUSE/GUEST(S) \_\_\_\_\_

COMPANY \_\_\_\_\_

ADDRESS \_\_\_\_\_

CITY \_\_\_\_\_ STATE \_\_\_\_\_ ZIP \_\_\_\_\_

TELEPHONE \_\_\_\_\_ FAX \_\_\_\_\_ EMAIL \_\_\_\_\_

Please note: minimum 48-hour cancellation notice required. Add \$50 for payment at the door, based on space availability.

### Payment

- Check or Money Order enclosed (payable to FCAOC)

Amount \$ \_\_\_\_\_



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[www.forensic.org](http://www.forensic.org)

*Here's what your peers say about last year's FCAOC workshop:*

*"These two are entertaining and very relevant."*

*"Teaching me the tactics used by opposing attorneys really helped."*

*"Fast paced, well controlled, extremely good information"*

*"Real world examples"*

*"Good mix of demonstrations, lecture and humor"*

*"Lively, practical and without boring Powerpoints."*

*"Hands-on, interactive program"*

*"Good job!"*

