

The logo for SEAK, consisting of the letters 'SEAK' in a bold, white, sans-serif font with a horizontal line through the middle of the letters.

The Expert Witness Training Company

CAPE COD!

# Expert Witness Training

## How to Make More Money as an Expert Witness

September 14-15, 2017

NEW

## How to Excel and Succeed as an Expert Witness in Patent Cases: Special Techniques

September 14-15, 2017

## How to Excel at Your Expert Witness Deposition

September 16-17, 2017

Take your expert witness practice  
to the next level.

[www.TestifyingTraining.com](http://www.TestifyingTraining.com) • [www.SeakExperts.com](http://www.SeakExperts.com)

# Registration Information

**LOCATION/HOTEL ACCOMMODATIONS:** A limited block of rooms will be available at special rates at the site hotel, the Sea Crest Beach Hotel (Single/Double \$175). To make your reservations please call 1-800-225-3110 and mention that you are with SEAK Training. Rooms are limited and this rate expires on August 23, 2017 so you are strongly encouraged to make your reservations as soon as possible. Please see page 3 for additional information.

**REGISTRATION INFORMATION:** Tuition is \$1295 until July 15, 2017; \$1395 July 16, 2017–August 23, 2017; \$1495 after August 23, 2017. **Register early and save!**

**GROUP DISCOUNTS:** Group discounts are available for two or more persons registering from the same organization. Discount prices depend on the size of the group. Our programs can also be brought on site to your organization. Please call 508-457-1111.

**CONTINUING EDUCATION CREDIT:** Please see pages 4, 7, and 10 for CEU information.

**CANCELLATIONS:** Conference cancellations received in writing on or prior to August 23, 2017 will receive a full tuition refund. Persons cancelling after August 23, 2017 will receive a full tuition credit.

**MAIL to:** SEAK, Inc., P.O. Box 729, Falmouth, MA 02541 **FAX to:** 508.540.8304  
**CALL:** 508.457.1111 or **REGISTER ONLINE:** [www.seak.com](http://www.seak.com)

Each course is \$1295 until July 15, 2017; \$1395 July 16, 2017–August 23, 2017; \$1495 after August 23, 2017.

## PLEASE REGISTER ME FOR:

- How to Make More Money as an Expert Witness** (September 14–15, 2017)
- How to Excel and Succeed as an Expert Witness in Patent Cases: Special Techniques** (September 14–15, 2017)
- How to Excel at Your Expert Witness Deposition** (September 16–17, 2017)

## EXPERT WITNESS TRAINING SEMINARS AVAILABLE ON DVD: (MA residents add 6.25% sales tax)

- Law For Experts: What You Need to Know to Succeed (\$895)**
- How to Assist An Expert Witness Practice: The Support Staff Program (\$595)**
- How to Excel as an Expert Witness in Medical Malpractice Cases (\$895)**

Please print or type all items to assure accuracy.

All confirmations will be sent via email to the individual indicated.

Priority Code: CCEW17

<input type="checkbox"/> Check here if you require special accommodations to fully participate.		
First Name (as it will appear on name badge):		
Last Name:		
Title:		
Company/Organization:		
Specialty/Area of Expertise (to be included on your name tag for networking purposes):		
Mailing Address:		
City:	State:	Zip:
Phone:	Fax:	
E-Mail: (Please print neatly - confirmations and other information will be sent via e-mail)		
<input type="checkbox"/> I've enclosed a check payable to: SEAK, Inc., P.O. Box 729 Falmouth, MA 02541		
<b>OR</b> I'm Paying by Credit Card (please circle card type) MC / Visa / Amex / Discover		
Card Number:	Exp. Date:	
Name as it appears on the card:	Security Code:	
Signature:		

# Let SEAK show you how to take your expert witness practice to the next level.

Please join us on gorgeous Cape Cod for:

1. **How to Make More Money as an Expert Witness** – Learn how to dramatically improve the profitability of your expert witness practice.
2. **How to Excel and Succeed as an Expert Witness in Patent Cases: Special Techniques** – Unique, specialized training for patent experts and those who want to become patent experts.
3. **How to Excel at Your Expert Witness Deposition** – intensive hands-on training which will show you how to markedly improve your performance at deposition.

## About SEAK, Inc.

SEAK, Inc. is the Expert Witness Training Company. We have trained thousands upon thousands of expert witnesses and publish numerous texts and practice aids for expert witnesses. For more information, please visit [www.TestifyingTraining.com](http://www.TestifyingTraining.com).

## Questions About SEAK's Naples 2017 Expert Witness Training?

If you have any questions about our upcoming SEAK Expert Witness Training feel free to contact SEAK's President Steven Babitsky, Esq. at 508-548-9443 or [StevenBabitsky@seak.com](mailto:StevenBabitsky@seak.com).

## Hotel And Travel Information

Falmouth is one of the Cape's best playgrounds for vacationers of all ages and interests. It features over 75 miles of scenic coastline, three ferries to Martha's Vineyard, countless dining options, numerous antique shops, the Shining Sea bike trail, the Woods Hole Oceanographic Institution (which found the *Titanic* and *Bismarck*, among other famous accomplishments), numerous public golf courses, warm ocean temperatures and daytime high temperatures which average in the 70s during the month of September. Nantucket ferries run from Hyannis, which is approximately thirty minutes (by car) from Falmouth.

**The Sea Crest Beach Hotel** is a full-service beach front hotel nestled in a beautiful oceanfront location which underwent an \$18,000,000 renovation during the winter of 2011 ([www.seacrestbeachhotel.com](http://www.seacrestbeachhotel.com), 800-225-3110).

## Getting to Falmouth:

The two major airports closest to Cape Cod are Logan International Airport in Boston, MA (70 miles) and T.F. Green Airport in Warwick, Rhode Island (65 miles). Barnstable Airport is 22 miles from the Sea Crest Beach Hotel, but this is a commuter airport that has smaller planes and fewer flights. T.F. Green is preferred over Logan (if you can get a direct flight) as it is usually less congested. Rental cars, taxis and car service are available at all three airports.



# How to Make More Money as an Expert Witness

The Sea Crest Beach Hotel, Falmouth, Cape Cod, Massachusetts

Thursday-Friday, September 14-15, 2017

**Executive Summary:** This course will teach you how to dramatically increase the profitability of your expert witness practice. It is taught by a thought leader in expert witnessing. The fast moving interactive presentation addresses revenue enhancement strategies from many perspectives including marketing, sales, fee setting, collections, practice management, branding, and positioning. You will leave with a personalized action plan describing the concrete steps you should take in order to make vastly more money through your expert witness practice. **This highly acclaimed program will not be offered again in 2017.**

## You will learn how to:

- Make yourself far more attractive to potential clients,
- Get new clients to come to you,
- Optimize your fee structure and minimize collection difficulties,
- Convert more case leads into paying clients,
- Position yourself in a lucrative niche,
- Data mine your old cases and case inquiries,
- Maximize repeat and word of mouth business,
- Cost effectively market your expert witness practice,
- Reduce non-billable time,
- Leverage yourself, and
- Make far more money through your expert witness practice.

**Continuing Education Information:** There are no continuing education credits available for this program.

**Registration Information:** Tuition is \$1295 until July 15, 2017; \$1395 July 16, 2017 – August 23, 2017; \$1495 after August 23, 2017. **To register, please use the form on page 2, call 508-457-1111 or visit [www.seak.com](http://www.seak.com).** Group discounts are available for two or more persons registering from the same organization. Discount prices depend on the size of the group. Our programs can also be brought onsite to your organization. Please call 508-457-1111. **Register early and save.**



**Faculty:** James J. Mangraviti, Jr., Esq. is a Principal of SEAK, Inc.—The Expert Witness Training Company. He has trained thousands of expert witnesses through SEAK’s scheduled programs for expert witnesses, invited presentations, and customized expert witness training programs presented to corporations, associations, and governmental Agencies such as the FBI, NYPD and IRS. He also serves as one-on-one consultants to expert witnesses who desire to expand their expert witness practices and make them more lucrative ([www.TestifyingTraining.com](http://www.TestifyingTraining.com)). Jim is the co-creator of SEAK’s National Expert Witness Directory ([www.SeakExperts.com](http://www.SeakExperts.com))—the top rated expert witness directory. He is the co-author of numerous texts for experts including *How to Market Your Expert Witness Practice: Evidence-Based Best Practices*, *How to be a Successful Expert Witness—SEAK’s A-Z Guide to Expert Witnessing*, *How to Be an Effective Expert Witness at Deposition and Trial—The SEAK Guide to Testifying as an Expert Witness*, and *How to Write an Expert Witness Report*. Jim can be reached at [Jim@seak.com](mailto:Jim@seak.com) or 978-276-1234.

***“Jim, Thanks to you ... for an excellently executed program on How to Make More Money as an Expert Witness. I left with more than four dozen concrete follow-up action items.”***

***“Jim, Thanks for the class on making more money! It was VERY helpful!”***

***“Excellent job in giving practical things we can do!”***

***“Good specific examples on where to search for attorney clients, advertising examples.”***

***“It was very informative. Every time I’m able to find the time to attend [SEAK Training], I always make positive changes and new directions.”***

***“High-yield, inspiring and fun.”***

***“Very helpful info, validated I’m doing a number of things well, but also showed me areas/opportunities for improvement.”***

# How to Make More Money as an Expert Witness

The Sea Crest Beach Hotel, Falmouth, Cape Cod, Massachusetts

Thursday, September 14, 2017

## 7:30 – 8:00 REGISTRATION & CONTINENTAL BREAKFAST

### 8:00 – 8:45 What Potential Clients are Looking For in Expert Witnesses

The faculty will detail what attorneys are looking for in expert witnesses. [Questions & Answers.](#)

### 8:45 – 9:30 How to Recognize and Showcase What Makes You Most Attractive To Potential Clients

A first step in developing a business development strategy is creating and refining your “elevator speech,” —i.e. a concise summary of what potential clients would like about you. Building upon the previous segment, the faculty will explain a protocol for developing your ideal elevator speech and provide examples of effective elevator speeches.

[Questions & Answers.](#)

### 9:30 – 10:15 Finding Your Niche and Utilizing it to Increase Your Income

The potentially enormous benefits of finding a good niche will be explained and attendees will be provided with numerous successful examples as well as a protocol to identify/develop their lucrative niche. [Questions & Answers.](#)

## 10:15 – 10:30 Break (Networking Opportunity)

### 10:30 – 11:15 Positioning Yourself in the Best Possible Light

The faculty will explain how to make yourself as attractive as possible to potential clients, including: how to project a positive and professional image (and the biggest mistakes experts make in this area), how case selection influences your image, which cases/law firms to seek out and which cases/law firms to avoid, how to demonstrate effective communication skills, how and when to fill in gaps and build your CV, why you should keep a low profile, and how to gain hands-on and relevant testifying experience. [Questions & Answers.](#)

### 11:15–12:00 How to Develop and Implement an Income Maximizing Fee Structure

Faculty will provide suggestions and a “litmus” test attendees can use when reconsidering their fee and retainer structure. Emphasized will be techniques to make sure that you are not undercharging. [Questions & Answers.](#)

## 12:00–12:45 LUNCH PROVIDED WITH FACULTY

### 12:45–1:30 How to Minimize Collection Difficulties and Write Offs

Simply put, every billed dollar that is not ultimately collected comes right off your bottom line. In this segment the faculty will provide practical advice for minimizing both collection losses and write-offs. [Questions & Answers.](#)

### 1:30 – 2:15 How to Convert a Higher Percentage of Inquiries into Paid Assignments

Faculty will share with attendees: how to prepare for calls, what counsel are looking for, key “talking points” and numerous strategies and techniques for excelling during the call and its aftermath and converting the inquiry into a paid expert witness assignment. [Questions & Answers.](#)

### 2:15 – 3:00 How Much Are Your New Clients Worth?

Attendees will learn how to consider the true worth of a new client. Such an understanding is critical in order to accurately assess the cost-effectiveness of the business development techniques discussed later in the course.

[Questions & Answers.](#)

## 3:00 – 3:15 Break (Networking Opportunity)

### 3:15 – 4:00 Fundamentals of Expert Witness Development

Faculty will discuss and explain the art and science of business development for expert witness practices. Emphasis will be placed on cost-effective techniques that attendees can immediately use to increase their income without creating a backlash or fodder for cross examination. [Questions & Answers.](#)

### 4:00 – 4:30 How to Track Your New Client Development

Faculty will explain techniques for tracking inquiries and cases. A model tracking form will be provided.

[Questions & Answers.](#)

### 4:30 – 5:00 How to Data Mine Your Old Cases and Inquiries to Make More Money

Maximizing your revenue requires a periodic analysis of your past cases and inquiries. The faculty will provide a protocol and form to conduct this analysis and will demonstrate through examples the highly valuable and actionable data that may well be within your easy reach. [Questions & Answers.](#)

# How to Make More Money as an Expert Witness

The Sea Crest Beach Hotel, Falmouth, Cape Cod, Massachusetts

Friday, September 15, 2017

**6:30 – 7:00 Continental Breakfast with Faculty**

**7:00 – 7:30 How to Identify and Reach the Attorneys Most Likely to Hire You**

Faculty will discuss and demonstrate how you or your staff can easily locate the particular attorneys most likely to hire you for new expert witness assignments. **Questions & Answers.**

**7:30 – 8:30 How to Maximize Repeat and Word of Mouth Business**

By far the most valuable and cost effective business development technique for expert witnesses is generating positive word of mouth. The faculty will provide dozens of suggestions and strategies for increasing repeat business with resulting increased income. **Questions & Answers.**

**8:30 – 9:15 How to Develop a Comprehensive and Effective Internet Strategy**

An effective internet strategy goes far beyond just putting up a web page. The authors will provide advice for developing a comprehensive and effective internet strategy involving URL selection, web site design, blogging, social media, search engine optimization, pay per click, inbound marketing, and calls to action. **Questions & Answers.**

**9:15 – 9:30 Break (Networking Opportunity)**

**9:30 – 10:15 How and Where to Advertise: Evidence Based Best Practices**

Research and evidence suggests that advertising and listing in expert directories can be remarkably cost effective and that, for most experts, there is little if any backlash from tasteful, factual ads. The faculty will specifically explain what should and should not be in expert witness advertisements, how specifically to maximize the effectiveness of your ads, and how and where to test advertising. **Questions & Answers.**

**10:15 – 10:45 Advanced Networking Techniques for Expert Witnesses**

The faculty will explain and provide examples of six specific techniques for staying in front of clients and how specifically to implement each. The faculty will further describe methods for networking with one's colleagues and how this can lead to case referrals. Also discussed will be which professional organizations to join, how to leverage your personal relationships, why you should serve as a mentor, which conferences you should attend, and how to use online networking through LinkedIn to boost your expert witness practice. **Questions & Answers.**

**10:45 – 11:00 Break (Networking Opportunity)**

**11:00 – 11:30 How to use Public Speaking and Writing to Increase Your Revenue**

Speaking and writing can be very good for your bottom line. The faculty will explain and demonstrate the subtle nuances that need to be navigated to get the most out of your speaking engagement. The faculty will explain where to talk, how to get invited, when the best time to talk is, and how to get invited back and will offer advice on risk management so that the expert's presentation does not come back to haunt the expert. In regards to writing, the faculty will explain how to choose the correct topic to write on, the various types of writing that experts can do (white papers, articles, peer review articles, blogs, books, etc.), how to calculate the cost of writing, risk management considerations influencing your title, content, and where to publish—all with the aim of generating lucrative cases. **Questions & Answers.**

**11:30 – 12:00 Direct Outreach**

The faculty will explain how to draft an effective communications piece and who to target this piece to. Also included will be tips and advice on how to make your outreach cost-effective. **Questions & Answers.**

**12:00 – 12:45 Lunch with Faculty (Provided-Networking Opportunity)**

**12:45 – 1:15 Reducing Non-Billable Time**

The less time you spend on non-billable time the more time you will have to bill, develop your practice, and increase your skills. The faculty will explain how to create large amounts of extra time by leveraging yourself through technology and proper staffing. **Questions & Answers.**

**1:15 – 1:45 Leveraging Your Name and Reputation to Earn More Money: Bringing on Additional Experts**

Many expert witnesses work in firms or group settings. Expanding your practice to a group can allow you to greatly increase your billings and revenue as well as build residual sale value in your firm. The faculty will discuss the benefits and drawbacks of expanding beyond a one person firm and will give practical advice for doing so successfully. **Questions & Answers.**

**1:45 – 2:30 Personalized Action Plans**

Attendees will work with faculty to pull together a personalized action plan to greatly expand the profitability of their practices. These plans will be discussed and critiqued. **Questions & Answers.**

**REGISTER EARLY AND SAVE!**

# How to Excel and Succeed as an Expert Witness in Patent Cases: Special Techniques

The Sea Crest Beach Hotel, Falmouth, Cape Cod, Massachusetts

Thursday–Friday, September 14–15, 2017

**Executive Summary:** Patent work is perhaps the most lucrative of all expert witness case types. Fees for experts in patent cases commonly run in the six figures. **This new course is designed to assist those technical and medical experts who wish to excel in patent cases or those who wish to break into this field.** Patent cases are often the highest stakes civil litigation, with disputes in the seven to ten figure range. Attorneys in these cases are highly selective, well-funded and are looking for experts who understand the nuances of working on these challenging and rewarding cases. This course will provide attendees with the insights, skills and information to enable them to excel at patent cases. **How to Excel and Succeed as an Expert Witness in Patent Cases: Special Techniques will not be offered again in 2017.**

**Who is this course appropriate for?** Existing or prospective patent expert witnesses. In terms of areas of expertise, the most commonly litigated and lucrative patent issues often involve data communications and networking, molecular and cell biology, electronic systems, integrated circuits, electro-mechanical and microprocessor-controlled devices, medical devices, computer hardware and software, voice recognition and synthesis, chemistry, food science, biochemistry, textiles, plastics, optics and imaging, x-ray systems, metallurgy, ceramics, magnetic recording, fluid control systems and mechanical devices.

**Continuing Education Credits:** If your specialty does not appear below and you desire credits, please contact Karen Cerbarano ([Karen@seak.com](mailto:Karen@seak.com) or 781-826-4974). We can often obtain desired credits upon request, but unfortunately, obtaining some types of credits are not feasible. Please register early, as we can only apply for credits after your registration form has been received and it can take time to get the requested approvals back from the accrediting agencies.

**Accountants:** Earn 16.5 CPE credits in the field of study of Specialized Knowledge and Applications. SEAK, Inc. is registered with the National Association of State Boards of Accountancy (NASBA) as a sponsor of continuing professional education on the National Registry of CPE Sponsors. State boards of accountancy have final authority on the acceptance of individual courses for CPE credit. Complaints regarding registered sponsors may be addressed to the National Registry of CPE Sponsors through its website: [www.nasbaregistry.org](http://www.nasbaregistry.org). For SEAK's complaint and program cancellation policies please call SEAK, Inc. at 508-457-1111. All attendees should have the education and experience that would qualify them as an expert witness. This is an advanced group-live program. Advanced Preparation: None. This program was created in December 2016. To register, please follow the instructions on page 2. **Attorneys:** Credit varies by state. Continuing legal education credits for attorneys will be applied for if requested in writing at the time of registration. **Engineers:** 14 PDHs. The acceptance of this course is dependent upon your state(s) of registration. The vast majority of states do not require preapproval of either courses or course sponsors. **Physicians:** SEAK, Inc. is accredited by the Accreditation Council for Continuing Medical Education to provide continuing medical education for physicians. SEAK, Inc. designates this live activity for a maximum of 14 AMA PRA Category 1 Credit(s)<sup>™</sup>. Physicians should claim only the credit commensurate with the extent of their participation in the activity.

**NOTE: SEAK does not accept commercial support for its programs and does not use faculty members with conflicts of interest.**

**Registration Information:** Tuition is \$1295 until July 15, 2017; \$1395 July 16, 2017–August 23, 2017; \$1495 after August 23, 2017. **To register, please use the form on page 2, call 508-457-1111 or visit [www.seak.com](http://www.seak.com).** Group discounts are available for two or more persons registering from the same organization. Discount prices depend on the size of the group. Our programs can also be brought onsite to your organization. Please call 508-457-1111. **Register early and save.**

## FACULTY:



**Steven Babitsky, Esq.** is president of SEAK INC., has trained thousands of expert witnesses and has wide experience in preparing patent experts for depositions and trials.



**Jeffrey Gotro, PhD** is a chemistry polymer and intellectual property expert witness with wide experience in patent litigation. Dr. Gotro received his PhD from Northwestern University and his BSME from Marquette University. He has 59 technical publications in the field of polymers and has 14 issued patents and 5 patents pending. Dr. Gotro is President of InnoCentrix.



**Nathan Speed, Esq.** is a trial attorney in the law firm of Wolf Greenfield. Attorney Speed has experience litigating patent cases in federal district courts across the country, including in the District of Massachusetts, the Southern District of New York, the District of Delaware, as well as the United States International Trade Commission and the Court of Appeals for the Federal Circuit. Attorney Speed's patent litigation and post-grant review experience includes a wide array of subject matters, including data protection and recovery software, 3-D printing technologies, computer and graphics processors, voice-over-internet telephone technologies, digital cinema cameras, bionic prosthetics, and pharmaceutical compounds.



**Andrew Calman, MD, PhD** is an ophthalmologist and expert witness in San Francisco, CA. He is also an assistant clinical professor at UCSF. He received his BS and MS from Yale University and his MD and PhD from the University of California. Dr. Calman is an experienced patent expert with knowledge about pharmacologic patent law including Hatch-Waxman, Paragraph IV filings, inter parte review and BPCIA.

**REGISTRATION IS LIMITED. REGISTER EARLY AND SAVE!**

# How to Excel and Succeed as an Expert Witness in Patent Cases: Special Techniques

The Sea Crest Beach Hotel, Falmouth, Cape Cod, Massachusetts

DAY ONE, Thursday, September 14, 2017

**7:30 – 8:00am REGISTRATION & CONTINENTAL BREAKFAST (Provided with Faculty)**

**8:00am – 9:00am Patent Law for Expert Witnesses – Substantive** Success as a patent expert witness requires a nuanced understanding of patent law. In this segment attendees will learn the key concepts of U.S. Patent law including eligibility, utility, anticipation/prior art, novelty, nonobviousness, infringement, and damages including lost profits, reasonable royalty, and *Georgia Pacific*. **Questions & Answers.**

**9:00am – 10:00am Patent Law for Expert Witnesses – Procedural** Patent litigation takes place in U.S. District Court or in proceedings before the United States Patent and Trademark Office (USPTO). In this segment attendees will learn the key procedures that govern such proceedings in District Court including Rule 26 reports, Rule 26 discoverability including communications with counsel, and draft reports. Faculty will explain the reexamination process and parallel litigation. In addition, attendees will learn the purpose and key rules relating to expert witnesses for USPTO post grant reviews and inter partes reviews as well as proceedings before the Patent Trial and Appeal Board. **Questions & Answers.**

**10:00am – 10:15am BREAK AND NETWORKING OPPORTUNITY**

**10:15am – 11:00am Your Qualifications – How to Avoid and Defeat Challenges** An easy way for an opposing attorney to attack you is to challenge your qualifications. This can result in either a diminution of your credibility or even worse, your exclusion from testifying. In this segment the faculty will review relevant case law and provide specific, practical advice regarding how opposing counsel will attack your qualifications, which cases to accept and which cases to pass on, how to connect the dots and articulate your qualifications, and how to insulate yourself from attack. **Questions & Answers.**

**11:00am – 12:00pm Claim Construction and the Expert Witness** The construction of patent claims plays a crucial role in patent cases and often impacts infringement, validity, and unenforceability. In this section faculty will explain, with examples, how to analyze claim construction including whether construction of a claim term is required and interpretation of a claim term. Discussion will include the role of the expert in proper construction and the terms of art “ordinary meaning” and “initial understanding.” **Questions & Answers.**

**12:00pm – 12:45pm LUNCH (Provided with Faculty)**

**12:45pm – 1:45pm How to Insulate Against and Survive *Daubert* Challenges** Considering the amount at stake in many patent infringement lawsuits, a *Daubert* challenge of the experts in the case is the rule rather than the exception. An adverse *Daubert* ruling can have a devastating effect on both the case at hand and the expert’s future employability as a patent expert witness. In this segment the faculty will provide a refresher on the *Daubert* standard and provide specific techniques and suggestions for avoiding and surviving such challenges in patent cases. **Questions & Answers.**

**1:45pm – 2:00pm BREAK AND NETWORKING OPPORTUNITY**

**2:00pm – 3:00pm The Role of the Expert in Markman Hearings** In Markman hearings, also known as claim construction hearings, the judge will determine the meaning of words in the patent dispute. Faculty will discuss the crucial role experts play in these hearings including helping counsel understand the technical meaning of the patents, writing declarations, and providing tutorials (both live or on video) for the judge. **Questions & Answers.**

**3:00pm – 4:00pm Patent Validity – How to Develop Defensible Opinions** In order for an invention to be patentable in the U.S. it must be new and non-obvious. In this segment faculty will explain aspects of validity determination, with examples, including: anticipation, inherency, differences between prior art and the invention, long felt need, unexpected results, and the failures of others. Faculty will demonstrate a protocol for developing defensible opinions on patent validity. **Questions & Answers.**

**4:00pm – 5:00pm How to Market Yourself and Break into Patent Work** Patent work can be highly lucrative. The cases may involve extremely large amounts of money. This reality means that lawyers can often be hesitant to employ inexperienced experts. In this section we will provide practical techniques to define your niche(s), get the word out, break into the field and build a lucrative practice. **Questions & Answers.**

**NEW! How to Excel and Succeed as an Expert Witness in Patent Cases: Special Techniques****The Sea Crest Beach Hotel, Falmouth, Cape Cod, Massachusetts****DAY TWO, Friday, September 15, 2017****6:30 – 7:00am CONTINENTAL BREAKFAST (Provided with Faculty)**

**7:00am – 8:00am Patent Infringement – How to Develop Defensible Opinions** Infringement is the unauthorized making, using, or offering for sale of any patented invention within the U.S. Faculty will explain and demonstrate with examples: “reading” a claim, the doctrine of equivalents, and how it is applied to claims limitation. The types of patent infringement: direct literal, direct, divided, indirect, induced, and contributory will be explained and demonstrated. Faculty will provide a protocol for developing defensible opinions on patent infringement. **Questions & Answers.**

**8:00am – 9:00am The Role of the Expert in The Discovery Process** Discovery is an integral part of patent litigation. Faculty will explain, with examples, the crucial role experts play in the discovery process, including assisting counsel with document requests and production, interrogatories, requests for admissions, depositions, subpoenas, and expert discovery. **Questions & Answers.**

**9:00am – 9:15am BREAK AND NETWORKING OPPORTUNITY**

**9:15am – 10:15am How to Write a Superb Report in Patent Cases – Special Techniques** Patent litigation takes place in federal court and must follow the requirements of FRCP 26. In this segment attendees will learn special techniques for drafting powerful and persuasive reports pursuant to FRCP 26. Included will be a discussion of how far retaining counsel can go in assisting you to prepare the report. Faculty will provide and discuss examples of well written reports in patent cases. **Questions & Answers.**

**10:15am – 10:30am BREAK AND NETWORKING OPPORTUNITY**

**10:30am – 11:15am How to Excel as a Patent Expert at Deposition – Special Techniques** In this segment you will learn how to deal with the trick and difficult deposition questions specific to patent cases. In addition, you will learn how to recognize and defeat the specialized tactics opposing counsel may use against you during a patent litigation deposition. **Questions & Answers.**

**11:15am – 12:00pm How to Screen Retaining Lawyers and Properly Manage the Relationship with Retaining Counsel** Patent prosecution and litigation is a highly specialized field. In addition, patent litigation can often involve the highest financial stakes. Working with a competent and ethical lawyer is essential. In this segment the faculty will provide suggestions for performing due diligence on retaining counsel before accepting the case. They will also provide specific advice for avoiding the ethical pitfalls that can sometimes crop up when lawyers are under tremendous pressure to win. **Questions & Answers.**

**12:00pm – 12:45pm LUNCH (Provided with Faculty)**

**12:45pm – 1:30pm How to Excel as a Patent Expert Witness During Direct Examination – Special Techniques** Effective expert witness direct testimony can be quite challenging. The expert will be called upon to explain technical concepts to a lay audience in a way that is both understandable and persuasive. In this segment you will learn special techniques to excel during direct testimony in patent litigation cases. Faculty will illustrate these direct examination best practices with demonstrations. **Questions & Answers.**

**1:30pm – 2:30pm How to Excel as a Patent Expert Witness During Cross-Examination – Special Techniques** Given the stakes, you should expect opposing counsel to be very competent, extremely well prepared, and very aggressive. In this segment attendees will learn how to deal with trick and difficult questions in patent cases as well as how to recognize and defeat the specialized tactics opposing counsel may use against you during cross examination. Faculty will present the 20 questions patent experts must be able to answer to succeed. The faculty will illustrate cross-examination best practices. **Questions & Answers.**

**REGISTER EARLY AND SAVE!**

## How to Excel at Your Expert Witness Deposition

The Sea Crest Beach Hotel, Falmouth, Cape Cod, Massachusetts

Saturday–Sunday, September 16–17, 2017

**Executive Summary:** *How to Excel at Your Expert Witness Deposition* is SEAK's most intensive deposition training seminar. It is designed to help expert witnesses to markedly improve their deposition skills. *How to Excel at Your Expert Witness Deposition* is fast moving and content rich. The course is taught using five methodologies: lecture, interactive exercises, videos of experts testifying in real cases, mock deposition demonstrations, and questions and answers. This is a hands on course. All attendees will have the opportunity to practice their deposition skills through in class exercises and to receive feedback from the faculty. **This course will only be offered once in 2017.**

After completing this interactive training you will be able to:

- Demonstrate improved active listening skills.
- Deliver powerful, bullet point responses.
- Answer questions truthfully while leaving yourself some flexibility.
- Employ numerous proven strategies to excel at deposition.
- Recognize and defeat opposing counsel's tactics.
- Excel at answering trick questions.
- Articulately answer questions regarding your qualifications, fees, biases, opinions, methodology, and report.
- Effectively deal with skeletons in your closet.
- Better handle abusive questioning.
- Prepare an individualized protocol to excel at expert witness depositions.

**Continuing Education Credits:** If your specialty does not appear below and you desire credits, please contact Karen Cerbarano (Karen@seak.com or 781-826-4974). We can often obtain desired credits upon request, but unfortunately, obtaining some types of credits are not feasible. Please register early, as we can only apply for credits after your registration form has been received and it can take time to get the requested approvals back from the accrediting agencies.

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### FACULTY:

**Steven Babitsky, Esq.** is the President and founder of SEAK, Inc., the Expert Witness Training Company. He was a personal injury trial attorney for twenty years and is the former managing partner of the firm Kistin, Babitsky, Latimer & Beitman. Steve has helped expert witnesses and their attorneys prepare for deposition in a broad range of cases, including antitrust, patent, medical malpractice, wrongful death, computer forensics, and many others. He has trained the Federal Bureau of Investigation and the Federal Aviation Administration, and he has worked with numerous forensic and financial companies including Fortune 500 companies and has worked with numerous experts to help them expand and grow their practices. Mr. Babitsky is the co-author of the texts *How to Be an Effective Expert Witness at Deposition and Trial: The SEAK Guide to Testifying as an Expert Witness*, *How to Be a Successful Expert Witness: SEAK's A-Z Guide to Expert Witnessing*, *How to Write an Expert Witness Report*, and *How to Market Your Expert Witness Practice Evidence-Based Practices*. Attorney Babitsky is the co-developer and trainer for the "How to Be an Effective Expert Witness" seminar and has been the seminar leader since 1990 for the Annual National Expert Witness and Litigation Conference. Mr. Babitsky trains hundreds of experts every year. He may be contacted at **508-548-9443** or [stevenbabitsky@seak.com](mailto:stevenbabitsky@seak.com).

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## How to Excel at Your Expert Witness Deposition

### The Sea Crest Beach Hotel, Falmouth, Cape Cod, Massachusetts

#### DAY ONE, Saturday, September 16, 2017

7:30 – 8:00 Registration and Continental Breakfast with Faculty

#### PART I: LAW, STRATEGY & SKILLS

**8:00 – 8:45 Law and Procedure** Attendees will learn the key legal principles and rules which govern depositions including what questions can be asked, the legal basis and limits of “fishing expeditions,” applicability and limits of claims of privilege, meaning and effect of “off the record,” meaning and effect of “the standard stipulations,” discoverability of expert-retaining counsel communication, time limits, limitations on questioning because of abusive intent, harassment, or undue burden, admissibility of deposition questions at trial, reading and signing, and protective orders. **Questions and Answers** *Learning Objective: Explain the law and procedure governing expert witness depositions.*

**8:45 – 9:30 Understanding Opposing Counsel's Strategies and Goals** Excelling at deposition requires an appreciation of opposing counsel's likely strategies. Attendees will learn why opposing counsel will likely ask open ended questions and may interrogate the witness in a non-confrontational manner designed to keep the witness talking. Attendees will also learn the numerous likely goals of retaining counsel and will be provided with suggestions for dealing with each of these. These likely goals include learning the expert's opinions, learning the expert's qualifications, locking down the expert, sizing up the expert as a witness, probing for bias, discovering the expert's factual assumptions, gathering as much information as possible, using the expert to help his own case, intimidating the expert, learning what the expert did, and setting the stage to later get the expert or the expert's opinion excluded. In addition, the faculty will discuss the strategies of retaining counsel at deposition including objections and questioning of their own expert. **Questions and Answers** *Learning Objective: List the strategies and goals of opposing counsel.*

**9:30 – 10:15 How to Improve Your Active Listening Skills** Excelling at deposition requires superior active listening skills. Deponents should be able to recognize and recall every word of a question and should be able to repeat back questions asked of them verbatim. In this segment attendees will learn how to recognize and truthfully respond to lock down questions in a way that leaves the expert some flexibility, but does not make the expert sound evasive or defensive. The group will conduct interactive exercises to assess, practice and improve their active listening skills. **Questions and Answers** *Learning Objective: Describe techniques for improving active listening.*

**10:15 – 10:30 Break (Networking Opportunity)**

**10:30 – 11:15 How to Leave Yourself Wiggle Room** A fundamental technique for truthfully and artfully answering deposition questions is to do so in a manner, where appropriate, that does not leave the witness 100% boxed in and locked down. In this segment attendees will learn how to recognize and truthfully respond to lock down questions in a way that leaves the expert some flexibility, but does not make the expert sound evasive or defensive. The group will conduct interactive exercises to assess, practice and improve their responses to lock down questions. **Questions and Answers** *Learning Objective: List techniques for recognizing and truthfully and artfully answering lock down questions.*

**11:15 – 12:00 Deposition Strategies for Expert Witnesses** Attendees will learn forty-seven techniques for excelling at their deposition. These include telling the whole truth, listening carefully to objections, insisting on finishing answers, not exaggerating, speculating, or guessing, avoiding arguing, not showing weakness, following a question answering protocol, staying calm, avoiding absolute words, avoiding rambling by putting a period on the answer, recognition of unintelligible questions, breaking counsel's momentum, staying in your sandbox, using time limits to your advantage, and encouraging opposing counsel to lose his cool. Many of these techniques will be demonstrated by short videos and interactive exercises. **Questions and Answers** *Learning Objective: List techniques for excelling at your deposition.*

**12:00 – 12:45 Lunch (Provided with Faculty)**

**12:45 – 1:30 Deposition Strategies for Expert Witnesses (Continued)**

#### PART II: CORE AREAS OF INQUIRY

**1:30 – 2:30 Qualifications** Expert witnesses should expect probing questions regarding why specifically they are qualified to opine in the case. Failure to excel in this area can lead to the expert being excluded from testifying – which can be a career ending event. Attendees will learn techniques for answering expected questions about their qualifications. Issues covered include articulating relevant experience and education and how these apply to the case at hand, dealing with missing or sub optimum levels of experience or credentials, CV issues, “have you ever done?” questions, number of similar cases, and recognizing what you are not an expert in. Many of these lines of inquiry will be demonstrated by short videos and will be practiced by the attendees through interactive exercises. **Questions and Answers** *Learning Objective: Describe techniques for answering qualifications questions.*

**2:30 – 3:15 Bias and Fees** The more opposing counsel can establish an expert as being biased, the less believable that expert will be. Attendees will learn techniques for answering expected questions about their bias and fees. Issues covered include fee questions, plaintiff v. defendant issues, long held beliefs, billings to date, bills, prior writings, prior testimony, association with outside groups, political beliefs, opinion always the same in every case, influence of retaining counsel, and percentage of income questions. Many of these lines of inquiry will be demonstrated by short videos and will be practiced by the attendees through interactive exercises. **Questions and Answers** *Learning Objective: Explain methods for answering bias and fees questions.*

**3:15 – 3:30 Break (Networking Opportunity)**

**3:30 – 5:00 Opinions** Expert witnesses are retained to provide opinions and must be able to articulate these opinions persuasively at deposition. Attendees will learn techniques for answering expected questions about their opinions. Issues covered include what the expert will and will not be testifying to, degree of flexibility in opinions, areas of agreement with opposing expert, new/additional opinions, degree of certainty, and rationale for opinions. Many of these lines of inquiry will be demonstrated by short videos and will be practiced by the attendees through interactive exercises. **Questions and Answers** *Learning Objective: Describe strategies for responding to questions about your opinions.*

## DAY TWO, Sunday, September 17, 2017

### 6:30 – 7:00 Continental Breakfast with Faculty

**7:00 – 7:45 Methodology** Opposing counsel may use the deposition to set the expert witness up for a later motion to exclude under *Daubert*. If the expert is so excluded this can often be a career ending occurrence. Attendees will learn techniques for answering expected questions about their methodology. Issues covered include how the expert's theory was tested, where the theory was subjected to peer review and publication, known or potential error rate, standards and controls, general acceptance in field, evidence of level of care, why extrapolation was justified, alternative explanations, and basis of research. Many of these lines of inquiry will be demonstrated by short videos and will be practiced by the attendees through interactive exercises. **Questions and Answers Learning Objective:** *Explain techniques to protect yourself from being set up for a Daubert challenge.*

**7:45 – 8:15 Your Expert Witness Report** In many if not most cases an expert witness will have submitted a written report prior to deposition. The expert witness's report will often raise numerous potential issues at deposition. Attendees will learn techniques for answering expected questions about their reports. Issues covered include who helped write the report, drafts/preliminary reports, research, footnotes or lack thereof, and mistakes/typos. Many of these lines of inquiry will be demonstrated by short videos and will be practiced by the attendees through interactive exercises. **Questions and Answers Learning Objective:** *Describe strategies for answering questions about your report.*

**8:15 – 9:00 Facts/Bases of Opinions** An expert witness's opinions are only as strong as what these opinions are based on. Expert witnesses can expect to be questioned closely regarding the bases of their opinions. Attendees will learn techniques for answering expected questions about the basis of their opinions. Issues covered include key facts of the case, assumptions, documentation, existence and extent of firsthand inspection, what was not done, cherry picking, interviews, veracity judgments, investigation, reliance on staff and/or other experts, timeline, and hypothetical questions. Many of these lines of inquiry will be demonstrated by short videos and will be practiced by the attendees through interactive exercises. **Questions and Answers Learning Objective:** *List the key facts that you will likely be asked about at deposition.*

### 9:00 – 9:15 Break (Networking Opportunity)

**9:15 – 9:45 Opposing Expert** An expert witness can expect numerous questions concerning the opposing expert and the opposing expert's opinions. Attendees will learn techniques for answering expected questions about opposing experts. Issues covered include qualifications, methodology, areas of agreement, and reasons for disagreement. Many of these lines of inquiry will be demonstrated by short videos and will be practiced by the attendees through interactive exercises. **Questions and Answers Learning Objective:** *List techniques for responding to questions about opposing expert and opposing expert's opinions.*

## PART III: SPECIAL SITUATIONS

**9:45 – 10:15 Giving a Deposition in a Case Where You Didn't Write a Report** It is becoming increasingly common for expert witnesses in state courts to be asked not to write a report. In this segment the faculty will offer practical advice regarding resulting issues such as, how to prepare for a deposition where you did not write a report, discussing with retaining counsel potentially drafting a simple list of opinions with reasons, and special techniques to prepare for a deposition in cases where a report was not written. **Questions and Answers Learning Objective:** *Discuss options to excel at depositions in cases where no report was written.*

**10:15 – 10:45 Dealing with Skeletons in Your Closet** Some experts are concerned about being asked about things in their past that they rather not talk about. In many cases questions in this area may be inappropriate. In further instances, questions about skeletons in the closet may be permissible at deposition, but would probably not be admissible at trial. In this segment the faculty will explain what is and is not likely to be a problem and how to deal with common issues such as being sued, disciplinary problems, being terminated, failing tests, mediocre or worse grades, health issues, private life, divorces, bankruptcy, arrests, convictions, etc. Each attendee will be afforded the opportunity to anonymously submit to the faculty for review, comment, and advice any issues which they may be concerned with in their own backgrounds. **Questions and Answers Learning Objective:** *Explain techniques for dealing with skeletons in your closet.*

### 10:45 – 11:00 Break (Networking Opportunity)

**11:00 – 11:30 Abusive Questioning** Experts may at some point experience questioning that is abusive and beyond the scope of what is legally permissible. Faculty will review the legal rules dealing with abusive questioning and provide practical advice for determining what is and is not abuse and how to deal with abusive questioning. **Questions and Answers Learning Objective:** *Describe strategies for dealing with abusive questioning.*

**11:30 – 12:00 Video Depositions** More and more expert witness depositions are recorded on video. These video depositions present additional challenges for the expert. In this segment the faculty will provide suggestions for excelling during a deposition that is recorded on video. Demonstrations will be conducted to provide feedback to how attendees look while being deposed. In addition, the attendees will be shown video clips of actual depositions to exemplify the issues that can occur with video depositions. **Questions and Answers Learning Objective:** *Describe strategies for excelling during video depositions.*

### 12:00 – 12:45 Lunch (Provided with Faculty)

## PART IV: TACTICS AND DEFENSES

**12:45 – 1:30 Recognizing and Defeating Opposing Counsel's Deposition Tactics** The faculty will explain numerous tactics that opposing counsel may use against the expert. Many of these tactics will be demonstrated by showing videos of actual depositions or by interactive exercises using volunteer attendees. The faculty will provide suggestions for dealing with each of the tactics. Tactics covered include going for the jugular off the bat, wearing the deponent down, intimidation, fishing for contradictions, catchalls, magic words, hypotheticals, mischaracterizations, and authoritative treatises. **Questions and Answers Learning Objective:** *Identify opposing counsel's deposition tactics and explain strategies for defeating each tactic.*

**1:30 – 2:00 Trick and Difficult Questions** The faculty will demonstrate, utilizing questions submitted by the attendees, numerous trick and difficult questions. The goal is to practice the techniques learned in the class such as active listening, refusal to be 100% locked down, and defeating counsel's tactics. The answers provided by volunteer attendees will be critiqued and possible better answers will be provided. **Questions and Answers Learning Objective:** *Describe a protocol for answering trick and difficult deposition questions.*

## PART V: PREPARATION

**2:00 – 2:30 Expert Witness Deposition Preparation Protocol** Success at deposition is far more a function of preparation, rather than inspiration. In this segment the faculty will provide suggestions for how to develop a protocol for proper preparations. Issues covered include, identifying issues of potential vulnerability, what to ask retaining counsel to do to prepare you, dealing with a refusal by retaining counsel to prepare you, getting your facts and files in order, how to review your file, what to know cold, and preparing headline-bullet point responses to key anticipated questions. **Questions and Answers Learning Objective:** *Explain a protocol for diligently preparing for an expert witness deposition.*

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