

EXPERT WITNESSES

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**SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE
CENTRAL JUSTICE CENTER**

Amanda Richey,
Plaintiff,
vs.
Katherine Glascoe,
Defendant.

) Case No.: 03XX123456
) **DEFENDANT'S WITNESS LIST**
)
) Date:
) Time:
) Dept.:
) Trial Date:

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

Defendant expects to offer into evidence at trial in the above matter the testimony of the following:

- 1. Percipient witnesses:
 - a. Ann Woodfin

Date: August 15, 2003

LAW OFFICES OF ELIZABETH HOUSE

By: _____
ELIZABETH HOUSE, Attorney for the Defendant

Objectives

In this Module, students will:

- ❖ **Familiarize themselves with the rules governing expert witnesses**
- ❖ **Define and discuss expert witnesses**
- ❖ **Define and discuss expert witness list**
- ❖ **Understand advantages and disadvantages of using experts**
- ❖ **Summarize form, timing, fees, and procedures**

EXPERT WITNESS OUTLINE

- **Defined**
 - An expert witness is an individual who possesses specialized knowledge through skill, education, training, or experience beyond that of the ordinary person or juror, and whose knowledge will aid the triers of fact (jury, judge, arbitrator) in reaching a proper decision.

 - After the initial trial setting date, any party may demand that all parties simultaneously exchange information concerning each other's expert witnesses, CCP § 2034.210.

- **Reasons to Use an Expert**
 - If an opinion needed for the trier of facts for an assessment, judgment or evaluation.
 - An opinion is not a fact, because opinions are either not falsifiable, or the opinion has not been proven or verified.
 - Expert testimony must come from someone qualified to render an opinion.

- **When are Experts Retained?**
 - Some End of discovery period
 - Experts are very expensive.
 - Cases settle, and therefore, experts are not needed.
 - Case should be fully assessed to determine if an expert is even needed at trial.

- **Advantages**
 - Provides greater understanding and insight of the issues for the court.
 - Helps cases to settle because other side may not be able to afford their own expert or the expert supports the opposing party's claim.
 - The expert's reports can be requested to further assess case.
 - Can depose the expert to gain more insight into their opinion.

- **Disadvantages**
 - Experts are very expensive.
 - Must disclose the expert's report once it has been demanded.
 - May support opposing party's case.
 - May need to depose the opposing party's expert which adds additional cost to the litigation.

- **Who Can Make the Demand?**
 - Any party can request the exchange of the expert witness list and to demand a copy of the report generated by the expert.

- **How Many?**
 - Each party can have one expert witness per one topic/issue.
- **When Can You Make a Demand?**
 - 10 days after the date has been set for trial or 70 days before the initial trial date. CCP § 2034.220
- **Form CCP § 2034.230**
 - Written demand
 - Name of party making demand
 - Date of when exchange must be done
 - Minimum of 20 days after service or 50 days before trial
 - Reports and other docs expert witness has in his file
- **What Must be Included in the Expert Witness List? CCP § 2034.260**
 - Name of expert witness
 - Address
 - Expert Witness Declaration
 - Qualifications
 - Area of expertise
 - Relevant education
 - Relevant employment
 - Professional memberships/societies
 - General substance of testimony to be given
 - Give enough facts so that a layperson can understand
 - Ready and able to testify
 - Familiar with case
 - Ready to be deposed
 - Cost
 - Hourly/daily rate
- **Treating Physician Dilemma**
 - Is the treating physician going to testify at trial and render an opinion? If so, the treating physician must be classified as an expert witness and disclosed on the expert witness list.
- **Supplementing Lists CCP § 2034.280**
 - Adding witness to correspond to their list
 - 20 days to supplement list after the initial exchange is completed
 - Otherwise, motion is required
- **Withdrawing Expert Witness from list CCP § 2034.260 (b)-(c)**
 - Have 20 days to withdraw an expert witness from your list.
- **Deposing Expert Witnesses CCP § 2034.410**

- o You have the right to depose opposing party's expert witness.
- o Different Deposition rules apply:
 - Notice (15 days notice).
 - Witness fees (customary hourly or daily rate).
 - Do not need subpoena for expert witness.
 - Need a subpoena for reports to bring reports the expert prepared to the deposition.
- **Fees for Expert Witness Deposition CCP § 2034.440**
 - o Must pay expert witness' hourly or daily rate.
 - o Amount has to be reasonable and customary.
- **Grounds to Exclude an Expert Witness CCP §§ 2034.300; 2034.310**
 - o Failure to list the expert on the list.
 - o Incomplete disclosure.
 - o No expert declaration.
 - o Failure to produce reports requested.
 - o Failure to make an expert witness available to deposition.
- **Impeaching Expert Witnesses CCP § 2034.310(b)**
 - o Difficult to impeach an expert witness because they have been qualified to render an opinion.
 - o Can attack the facts on which an expert witness is basing their opinion.
 - o Can attack qualifications (or lack thereof).
- **Experts Hired for Consultation**
 - o Generally not discoverable - work product.
 - o Consultants generally do not provide a written report.
 - o Consultants are generally retained at the beginning of the case to provide an overview.
 - o Consultants can be deemed an expert if they have the qualifications to provide an opinion and their opinion will be used at trial.

CODE OF CIVIL PROCEDURE

SECTIONS 2034.210-2034.310

Extent of the exchange of expert trial witness information

2034.210.

After the setting of the initial trial date for the action, any party may obtain discovery by **demanding that all parties simultaneously exchange information concerning each other's expert trial witnesses** to the following extent:

(a) Any party may demand a **mutual and simultaneous exchange** by all parties of a list containing the **name and address** of any natural person, including one who is a party, **whose oral or deposition testimony in the form of an expert opinion any party expects to offer in evidence at the trial.**

(b) If any **expert** designated by a party under subdivision (a) **is a party or an employee of a party**, or **has been retained** by a party for the purpose of forming and expressing an opinion in anticipation of the litigation or in preparation for the trial of the action, the designation of that witness shall include or be accompanied by an **expert witness declaration** under Section 2034.260.

(c) Any party may also include a **demand for the mutual and simultaneous production for inspection and copying of all discoverable reports and writings, if any, made by any expert** described in subdivision (b) in the course of preparing that expert's opinion.

NOTE: According to CCP 2034.010, this chapter does not apply to exchanges of lists of experts and valuation data in eminent domain proceedings under Chapter 7 (commencing with Section 1258.010) of Title 7 of Part 3.

When to make demand

2034.220.

Any party may make a demand for an exchange of information concerning expert trial witnesses without leave of court. **A party shall make this demand no later than the 10th day after the initial trial date has been set, or 70 days before that trial date, whichever is closer to the trial date.**

Written demand; form and contents of demand

2034.230.

(a) A demand for an exchange of information concerning expert trial witnesses shall be **in writing** and shall identify, below the title of the case, **the party making the demand**. The demand shall state that it is being made under this chapter.

(b) The demand **shall specify the date for the exchange** of lists of expert trial witnesses, expert witness declarations, and any demanded production of writings. The specified date of exchange shall be **50 days before the initial trial date, or 20 days after service of the demand**, whichever is closer to the trial date, unless the court, on motion and a showing of good cause, orders an earlier or later date of exchange.

Service of documents

2034.240.

The party demanding an exchange of information concerning expert trial witnesses shall **serve the demand on all parties** who have appeared in the action.

Protective orders

2034.250.

(a) A party who has been served with a demand to exchange information concerning expert trial witnesses may promptly **move for a protective order**. This motion shall be accompanied by a meet and confer declaration under Section 2016.040.

(b) The court, for good cause shown, may make any order that justice requires to protect any party from unwarranted annoyance, embarrassment, oppression, or undue burden and expense. **The protective order may include**, but is not limited to, one or more of the following directions:

- (1) That the **demand be quashed** because it was not timely served.
- (2) That the **date of exchange be earlier or later** than that specified in the demand.
- (3) That the **exchange be made only on specified terms** and conditions.
- (4) **That the production and exchange** of any reports and writings of experts be **made at a different place or at a different time** than specified in the demand.

(5) That some or all of the **parties be divided into sides on the basis of their identity of interest** in the issues in the action, and that the designation of any experts as described in subdivision (b) of Section 2034.210 be made by any side so created.

(6) That a **party or a side reduce the list of employed or retained experts** designated by that party or side under subdivision (b) of Section 2034.210.

(c) If the motion for a protective order is denied in whole or in part, the court may order that the parties, against whom the motion is brought, provide or permit the discovery against which the protection was sought on those terms and conditions that **are just**.

(d) The court shall impose a monetary sanction under Chapter 7 (commencing with Section 2023.010) against any party, person, or attorney who unsuccessfully makes or opposes a motion for a protective order under this section, unless it finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust.

Method of exchange; form and contents; expert witness declaration

2034.260.

(a) **All parties who have appeared in the action shall exchange** information concerning expert witnesses in writing on or before the date of exchange specified in the demand. The exchange of information may occur at a meeting of the attorneys for the parties involved or by a mailing on or before the date of exchange.

(b) **The exchange** of expert witness information shall **include either** of the following:

(1) A list setting forth **the name and address of any person** whose expert opinion that party expects to offer in evidence at the trial.

(2) **A statement that the party does not presently intend to offer the testimony of any expert witness.**

(c) If any witness on the list is an expert as described in subdivision (b) of Section 2034.210, the exchange shall also include or be accompanied by **an expert witness declaration signed only by the attorney** for the party designating the expert, or by that party if that party has no attorney. This declaration shall be under penalty of perjury and shall contain:

(1) A **brief narrative** statement of the **qualifications** of each expert.

(2) A **brief narrative** statement of the **general substance of the testimony** that the expert is expected to give.

(3) **A representation that the expert has agreed to testify at the trial.**

(4) **A representation that the expert will be sufficiently familiar with the pending action to submit to a meaningful oral deposition** concerning the specific testimony, including any opinion and its basis that the expert is expected to give at trial.

(5) A statement of the **expert's hourly and daily fee** for providing deposition testimony and for consulting with the retaining attorney.

Production of reports and writings; time and place to exchange

2034.270.

If a demand for an exchange of information concerning expert trial witnesses includes a demand for production of reports and writings as described in subdivision (c) of Section 2034.210, **all parties shall produce and exchange**, at the place and on the date specified in the demand, **all discoverable reports and writings**, if any, made by any **designated** expert described in subdivision (b) of Section 2034.210.

Supplemental expert witness lists

2034.280.

(a) **Within 20 days** after the exchange described in Section 2034.260, any party who engaged in the exchange **may submit a supplemental expert** witness list containing the name and address of any experts who will express an opinion on a subject to be covered by an expert designated by an adverse party to the exchange, **if the party supplementing an expert witness list has not previously retained an expert to testify on that subject.**

(b) This supplemental list shall be accompanied by an expert witness declaration under subdivision (c) of Section 2034.260 concerning those additional experts, and by all discoverable reports and writings, if any, made by those additional experts.

(c) The party **shall also make those experts available immediately for a deposition** under Article 3 (commencing with Section 2034.410), which deposition may be taken even though the time limit for discovery under Chapter 8 (commencing with Section 2024.010) has expired.

NOTE: This subsection uses the word “may” and not “must,” meaning that this disclosure is optional. An opposing counsel that did not designate an expert at the time of initial disclosure is unlikely to disclose when they acquire an expert.

Demand, responses and service; custody and retention of documents

2034.290.

(a) A demand for an **exchange of information** concerning expert trial witnesses, and any expert witness lists and declarations exchanged **shall not be filed with the court.**

(b) **The party demanding the exchange shall retain both the original of the demand, with the original proof of service affixed, and the original of all expert witness lists and declarations** exchanged in response to the demand until **six months** after final disposition of the action. At that time, all originals may be destroyed unless the court, on motion of any party and for good cause shown, orders that the originals be preserved for a longer period.

(c) Notwithstanding subdivisions (a) and (b), a demand for exchange of information concerning expert trial witnesses, and all expert witness lists and declarations exchanged in response to it, shall be lodged with the court when their contents become relevant to an issue in any pending matter in the action.

Exclusion of expert opinions; noncompliance with certain conditions

2034.300.

Except as provided in Section 2034.310 and in Articles 4 (commencing with Section 2034.610) and 5 (commencing with Section 2034.710), **on objection of any party** who has made a complete and timely compliance with Section 2034.260, **the trial court shall exclude from evidence the expert opinion of any witness** that is offered by any party who has **unreasonably failed** to do any of the following:

(a) **List that witness** as an expert under Section 2034.260.

(b) **Submit** an expert witness declaration.

c) **Produce** reports and writings of expert witnesses under Section 2034.270.

(d) Make that expert **available for a deposition** under Article 3 (commencing with Section 2034.410).

Experts not designated; testimony; permissible conditions

2034.310.

A party may call as a witness at trial **an expert not previously designated** by that party if either of the following conditions is satisfied:

(a) That expert has been **designated by another party** and has thereafter **been deposed** under Article 3 (commencing with Section 2034.410).

(b) That expert is called as a witness to **impeach the testimony** of an expert witness offered by any other party at the trial. This impeachment may include testimony to the falsity or nonexistence of any fact used as the foundation for any opinion by any other party's expert witness, but may not include testimony that contradicts the opinion.

CODE OF CIVIL PROCEDURE SECTIONS 2034.410-2034.470

Persons permitted to depose experts; procedural requirements

2034.410.

On receipt of an expert witness list from a party, any other party **may take the deposition of any person on the list**. The procedures for taking oral and written depositions set forth in Chapters 9 (commencing with Section 2025.010), 10 (commencing with Section 2026.010), and 11 (commencing with Section 2028.010) apply to a deposition of a listed trial expert witness except as provided in this article.

NOTE: Depositions are expensive and a long list of experts means that not all can be deposed.

Location of deposition; mileage limitations; exception

2034.420.

The deposition of any expert described in subdivision (b) of Section 2034.210 shall be taken at a place that **is within 75 miles of the courthouse where the action is pending**. On motion for a protective order by the party designating an expert witness, and on a showing of **exceptional hardship**, the court may order that the deposition be taken **at a more distant place from the courthouse**.

Application of section to certain designated experts; fees

2034.430.

(a) **Except as provided in subdivision (f), this section applies to an expert witness, other than a party or an employee of a party, who is any of the following:**

(1) An expert described in subdivision (b) of Section 2034.210.

(2) A treating physician and surgeon or other **treating health care practitioner** who is to be asked during the deposition to **express opinion** testimony, including opinion or factual testimony regarding the past or present diagnosis or prognosis made by the practitioner or the reasons for a particular treatment decision made by the practitioner, **but not including** testimony requiring only the reading of words and symbols contained in the relevant medical record or, if those words and symbols are not legible to the deponent, the approximation by the deponent of what those words or symbols are.

(3) An **architect, professional engineer, or licensed land surveyor** who was involved with the original project design or survey for which that person is asked to express an opinion within the person's expertise and relevant to the action or proceeding.

(b) A party desiring to depose an expert witness described in subdivision (a) **shall pay the expert's reasonable and customary hourly or daily fee for any time spent at the deposition** from the time noticed in the deposition subpoena, or from the time of the arrival of the expert witness should that time be later than the time noticed in the deposition subpoena, until the time the expert witness is dismissed from the deposition, **regardless of whether the expert is actually deposed** by any party attending the deposition.

(c) If any counsel representing the expert or **a nonnoticing party is late** to the deposition, the expert's reasonable and customary hourly or daily **fee** for the time period determined from the time noticed in the deposition subpoena until the counsel's late arrival, **shall be paid by that tardy counsel**.

(d) Notwithstanding subdivision (c), the hourly or daily **fee charged to the tardy counsel shall not exceed the fee charged to the party who retained the expert**, except where the expert donated services to a charitable or other nonprofit organization.

(e) A daily fee shall only be charged for a **full day** of attendance at a deposition or where the expert was **required by the deposing party to be available for a full day and the expert necessarily had to forgo all business that the expert would otherwise have conducted that day but for the request that the expert be available all day for the scheduled deposition**.

(f) In a worker's compensation case arising under Division 4 (commencing with Section 3201) or Division 4.5 (commencing with Section 6100) of the Labor Code, a party desiring to depose any expert on another party's expert witness list shall pay the fee under this section.

Fees for preparation and travel

2034.440.

The **party designating an expert is responsible** for any fee charged by the expert for **preparing** for a deposition and for **traveling** to the place of the deposition, as well as for any travel expenses of the expert.

Tender of fees; deposition takes too long

2034.450.

(a) The party taking the deposition of an expert witness shall either accompany the **service of the deposition notice with a tender of the expert's fee based on the anticipated length of the deposition, or tender that fee at the commencement of the deposition.**

(b) The expert's fee shall be delivered to the attorney for the party designating the expert.

(c) If the deposition of the expert takes longer than anticipated, the party giving notice of the deposition shall pay the balance of the expert's fee within five days of receipt of an itemized statement from the expert.

Production of expert at deposition; fees

2034.460.

(a) The **service** of a proper deposition notice accompanied by the **tender** of the expert witness fee described in Section 2034.430 is **effective to require the party employing or retaining the expert to produce the expert for the deposition.**

(b) If the party noticing the deposition fails to tender the expert's fee under Section 2034.430, the expert shall not be deposed at that time unless the parties stipulate otherwise.

Reasonableness of expert fees

2034.470.

(a) If a party desiring to take the deposition of an expert witness under this article deems that the hourly or daily fee of that expert for providing deposition testimony is **unreasonable**, that party may **move for an order setting the compensation of that expert**. Notice of this motion shall also be given to the expert.

(b) A motion under subdivision (a) shall be accompanied by a **meet and confer** declaration under Section 2016.040. In any attempt at an informal resolution under Section 2016.040, either the party or the expert shall provide the other with all of the following:

(1) Proof of the **ordinary and customary fee** actually charged and received by that expert for similar services provided outside the subject litigation.

(2) The total number of times the presently demanded fee has ever been charged and received by that expert.

(3) The frequency and regularity with which the presently demanded fee has been charged and received by that expert within the two-year period preceding the hearing on the motion.

(c) In addition to any other facts or evidence, the expert or the party designating the expert shall provide, and the court's determination as to the **reasonableness** of the fee shall be based on, proof of the ordinary and customary fee **actually charged** and received by that expert for similar services provided outside the subject litigation.

(d) In an action filed after January 1, 1994, the expert or the **party designating** the expert **shall also provide**, and the **court's determination as to the reasonableness** of the fee **shall also be based on, both of the following**:

(1) **The total number of times the presently** demanded fee has ever been charged and received by that expert.

(2) The **frequency and regularity** with which the presently demanded fee has been charged and received by that expert within the two-year period preceding the hearing on the motion.

(e) **The court may also consider the ordinary and customary fees charged by similar experts** for similar services within the relevant community and any other factors the court deems necessary or appropriate to make its determination.

(f) Upon a determination that the fee demanded by that expert is unreasonable, and based upon the evidence and factors considered, **the court shall set the fee of the expert providing testimony**.

(g) The court shall impose a **monetary sanction** under Chapter 7 (commencing with Section 2023.010) against any party, person, or attorney who unsuccessfully makes or opposes a motion to set the expert witness fee, unless it finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust.

CODE OF CIVIL PROCEDURE SECTIONS 2034.610-2034.630

Augmenting and amending where exchange of information was timely 2034.610.

(a) On motion of any party who has **engaged in a timely exchange of expert witness information**, the court may grant leave to do either or both of the following:

(1) **Augment** that party's expert witness list and declaration by adding the **name and address** of any expert witness whom that party has subsequently retained.

(2) **Amend** that party's **expert witness declaration** with respect to the general substance of the testimony that an expert **previously** designated is **expected to give**.

(b) A motion under subdivision (a) shall be made **at a sufficient time** in advance of the time limit for the completion of discovery under Chapter 8 (commencing with Section 2024.010) to permit the deposition of any expert to whom the motion relates to be taken within that time limit. Under **exceptional circumstances**, the court may permit the motion to be made at **a later time**.

(c) The motion shall be accompanied by a meet and confer declaration under Section 2016.040.

Conditions when granting a motion to augment or amend

2034.620

The court shall grant leave to augment or amend an expert witness list or declaration only if all of the following conditions are satisfied:

(a) The court has taken into account the extent to which the opposing party **has relied on** the list of expert witnesses.

(b) The court has determined that any party opposing the motion **will not be prejudiced** in maintaining that party's action or defense on the merits.

(c) The court has determined **either of the following**:

(1) The **moving party would not** in the exercise of **reasonable diligence** have determined to **call that expert** witness or have decided to **offer the different or additional testimony** of that expert witness.

(2) The **moving party failed to** determine to **call that expert** witness, or to **offer the different or additional testimony** of that expert witness as a result of **mistake, inadvertence, surprise, or excusable neglect**, and the moving party has done **both of the following**:

(A) **Sought leave** to augment or amend promptly **after deciding** to call the expert witness or to offer the different or additional testimony.

(B) **Promptly thereafter served** a copy of the proposed expert witness information concerning the expert or the testimony described in Section 2034.260 on all other parties who have appeared in the action.

(d) **Leave to augment or amend is conditioned on** the moving party making the expert **available immediately for a deposition** under Article 3 (commencing with Section 2034.410), **and on any other terms as may be just**, including, but not limited to, leave to any party opposing the motion to designate additional expert witnesses or to elicit additional opinions from those previously designated, a continuance of the trial for a reasonable period of time, and the awarding of costs and litigation expenses to any party opposing the motion.

Monetary sanctions; exception

2034.630.

The court shall impose a **monetary sanction** under Chapter 7 (commencing with Section 2023.010) against any party, person, or attorney who **unsuccessfully makes**

or opposes a motion to augment or amend expert witness information, unless it finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust.

CODE OF CIVIL PROCEDURE SECTIONS 2034.610-2034.630

Untimely response to demand; court authority to extend time

2034.710.

(a) On motion of any party who has **failed to submit expert witness information on the date** specified in a demand for that exchange, **the court may grant leave to submit that information on a later date.**

(b) A motion under subdivision (a) **shall be made a sufficient time in advance of the time limit for the completion of discovery** under Chapter 8 (commencing with Section 2024.010) to permit the deposition of any expert to whom the motion relates to be taken within that time limit. Under exceptional circumstances, the court may permit the motion to be made at a later time.

(c) The motion shall be accompanied by a meet and confer declaration under Section 2016.040.

Granting the tardy filing of list; satisfaction of certain conditions

2034.720.

The court shall grant **leave to submit tardy expert witness information** only if all of the following conditions are satisfied:

(a) The court has taken into account the extent to which the **opposing party has relied on the absence of a list of expert witnesses.**

(b) The court has determined that any party opposing the motion **will not be prejudiced** in maintaining that party's action or defense on the merits.

(c) The court has determined that the **moving party did all of the following**:

(1) Failed to submit the information as the result of **mistake, inadvertence, surprise, or excusable neglect**.

(2) **Sought leave to submit** the information promptly after learning of the mistake, inadvertence, surprise, or excusable neglect.

(3) **Promptly thereafter served a copy** of the proposed expert witness information described in Section 2034.260 on all other parties who have appeared in the action.

(d) **The order is conditioned** on the moving party making the expert **available immediately for a deposition** under Article 3 (commencing with Section 2034.410), **and on any other terms as may be just**, including, but not limited to, leave to any party opposing the motion to designate additional expert witnesses or to elicit additional opinions from those previously designated, a continuance of the trial for a reasonable period of time, and the awarding of costs and litigation expenses to any party opposing the motion.

Monetary sanctions; exception

2034.730.

The court shall impose a **monetary sanction** under Chapter 7 (commencing with Section 2023.010) against any party, person, or attorney who unsuccessfully makes or opposes a motion to **submit tardy expert witness information**, unless it finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust.

EXPERT WITNESS REVIEW QUESTIONS

- What is the definition of expert witness?

- What are the advantages of an expert witness?
- What are the disadvantages of an expert witness?
- When should an expert witness be used in a case?
- What is the first date a party may serve a demand for the expert witness disclosure/list?
 - When is the last date it can be requested?
- What is the date the demand for the expert witness list must be provided?
 - Does it matter if you are the defendant or the plaintiff to request the demand for the expert witness list?
- What must be included in an expert witness list?
- What must be included in the expert witness declaration?
- Can a treating physician be deemed an expert? If so, must they still be disclosed on the expert witness list?
- What is the difference between a consultant and an expert witness?
- Can you withdraw an expert witness from the list? If so, what are the consequences?
- May you depose an expert witness?
 - If so, what is the process?
 - Are there deposition fees that must be paid to the expert witness?
 - Who pays the fees?
- What are the grounds to exclude an expert witness?
- Why is it difficult to impeach an expert witness?
- Are there any circumstances for an expert to testify at trial who was not disclosed on the expert witness list?