
CONTENTS

Acknowledgments		xi
About the Author		viii
Chapter 1	Overview	1
Phase I	Gathering Relevant Information	
Chapter 2	Understanding Your Expert Discovery Goals	7
Chapter 3	Pursuing Expert Discovery in Traditional (“Pre-1993”) Jurisdictions	17
Chapter 4	Pursuing Expert Disclosure and Discovery in Federal and Other “Post-1993” Jurisdictions	45
Chapter 5	Piercing Overstated Work Product Claims	113
Chapter 6	Investigating the Adverse Expert Yourself	153
Chapter 7	Leveraging Your Own Expert (and Others) in Attack Mode	177
Phase II	Deposing the Adverse Expert	
Chapter 8	Preparing to Depose Their Expert	197
Chapter 9	Battlefield Questioning Techniques for Expert Depositions	249
Chapter 10	Selected Samples from an Adverse Expert Deposition	271
Chapter 11	Post-Deposition Assessment: Determining How to Attack the Adverse Expert at Trial	291

Phase III	Moving to Disqualify the Adverse Expert	
Chapter 12	Filing a Motion to Disqualify Their Expert	309
Chapter 13	Motions to Exclude or Limit the Adverse Expert's Testimony on Procedural Grounds	371
Phase IV	Launching Your Attack	
Chapter 14	Selecting the Most Receptive Jurors for Your Attack	391
Chapter 15	Undermining Their Expert in Your Opening	423
Chapter 16	Attacking Their Expert in Your Case-in-Chief	439
Phase V	Crossing the Adverse Expert	
Chapter 17	Preparing for a Successful Expert Cross: The Basics	477
Chapter 18	Showing that the Adverse Expert Is Wrong	491
Chapter 19	Attacking the Adverse Expert's Credibility (Including Competence)	519
Chapter 20	Conducting Mid-Trial Expert Discovery (If Needed)	577
Chapter 21	Applying Irving Younger's "Ten Commandments" to Your Cross of Their Expert	585
Chapter 22	Sample Cross of an Adverse Expert	635
Phase VI	Finishing the Job	
Chapter 23	Arguing Against Their Expert in Closing	697
Chapter 24	Appeals Concerning Adverse Expert Testimony	721
Chapter 25	Final Thoughts About the Importance of Attacking Incorrect Experts	743

Index

747

Appendix (ON COMPACT DISC)

Checklists and Outlines

Independent Investigation Checklist (from Chapter 6)

Checklist of Subjects Your Expert Needs to Teach You
(from Chapter 7)

Expert Deposition Outline (from Chapter 8)

Pretrial Checklist (from Chapter 11)

Checklist of Questions to Ask About Experts
(from Chapter 12)

Cross-Examination Outline (from Chapters 17-20)

Charts (of the Law of Multiple Jurisdictions)

Expert Discovery and Disclosure Chart

Work Product Chart

Expert Evidence Law Chart

Expert Cross-Examination Law Chart

Jury Instructions Chart

Expert Appeals Chart

Outlines (of the Law for Attorneys in Specified Jurisdictions)

The 50 States and the District of Columbia, Guam,
Puerto Rico, and the Virgin Islands