

YOUNG ON TRIALS

Expert Depositions:

The Key Questions

By Steve Young

YOUNGONTRIALS.COM

Jury Selection Webinar Series

I am presenting a webinar series on my unique method of facilitating the interchange between jurors in *voir dire*. In the six-part series, you will discover the processes, the nuances, and the tools of persuasion that will allow you to connect deeply with jurors.

Whether you are a beginner or a seasoned trial attorney, my “Mastering the Courtroom” webinar series will change what you think you know about trials and arm you with the strategies and techniques to make your case as powerful as possible.

[Find out more at MasteringTheCourtroom.com](http://MasteringTheCourtroom.com)



About the Author

Steve Young has conducted almost 200 Civil Jury Trials during 34 years as a lawyer. He is a national board certified Civil Trial Advocate. Mr. Young's firm, the Law Offices of Steven R. Young, specializes in "last minute trials."

Copyright © 2014 Steve Young
All Rights Reserved

Feel free to pass this document around the web, but please do not alter any of its contents when you do.

YoungOnTrials.com

Expert Depositions: The Key Questions

As trial approaches, you have received your opponent's expert disclosure. You've scheduled depositions for your opponent's experts. You have taken several regular depositions in this case, but you have never conducted an expert's deposition. You wonder, "What do I do?"

The first key to a successful expert deposition to understand what the deposition of an expert is and what it is not.

What the expert's deposition is not:

- A. An expert deposition is not the time to pull out the great impeachment evidence and examine the expert about it. It does you no good. The jury is not there. By the time you get to trial, you will have given the expert a heads up on what you have, and you will have given the expert time to prepare an answer and act as if it is no big deal despite freaking out in the deposition when first confronted with the impeachment.
- B. An expert deposition is not the time to cross examine the expert about matters in his or her opinion that contradict generally accepted science or procedure in the area of the opinion. Again, this is a matter for trial while the trier of fact is looking on.

What the Expert's deposition is:

The expert's deposition consists of several things:

- A. You want to learn what the expert's opinion is.
- B. You want to learn on what evidence the expert relies for the opinion.
- C. You want to learn what the attorney told the expert.
- D. You want to learn how long the expert spent formulating the opinion

Expert Depositions: The Key Questions

- E. You want to learn whether the expert actually is the one who derived the opinion or if the expert is relying on someone else.
- F. You want to learn if there are grounds to exclude the opinion in whole or in part.
- G. You want to learn how the expert presents as a witness and if he is persuasive.

What questions should you ask to learn what it is you seek?

1. Please tell your formal background, including resume, books, articles and lectures. Tell me what projects you are presently working on within your area of expertise.
2. When were you first hired as an expert in this matter? What are the details of your hiring?
3. Please give me your entire file for this matter including notes and memoranda, and calculations. (When you get the documents, go through them and identify each document. Some attorneys attach all of the expert's file to the deposition as an exhibit.) Have you discarded anything concerning this case since you were hired? What was that? Why?
4. How many hours have you spent working on this matter? (Attach time records and invoices to the deposition as an exhibit.)
5. Do you anticipate performing any further work before you testify at trial?
6. Did anyone assist you? Do you contemplate assistance from anyone in the future on this matter? Identify your assistants. What did each assistant do?
7. Have you reached any tentative opinion regarding the issues in the lawsuit?

Expert Depositions: The Key Questions

8. Please list each opinion you have formed, without giving me the reasons or details supporting the opinions. Are there any other opinions you have that you have not told me of?

9. As to each opinion, ask:
 - a. What are your reasons for each opinion?

 - b. State all assumptions in reaching each opinion.

 - c. Identify all data supporting each opinion.

 - d. Identify all evidence, documents, or photographs you examined or considered to arrive at that opinion.

 - e. Have you given me all the reasons supporting that opinion?

10. Have you ever read any materials pertaining to the subject of the opinion? Identify all such works. (Purpose here is to find impeaching material.) What is the title of publication, substance of contents, how expert became aware of the publication, etc?

Sign Up for My Jury Selection Webinar Series

Thank you for reading this short article. I wanted to make this direct and immediately useful, without narrative and fluff that usually litters “how to” articles. If you found even one question helpful I have succeeded.

I am presenting a webinar series on my unique method of facilitating the interchange between jurors in *voir dire*. Imagine the jurors smiling at you because they know you are not wasting their time. Imagine the jurors actually appreciating you asking them questions because you are seeking to know them as people rather than talk down to them. Imagine creating a law practice where the other side has to consider settlement with you because they know you will not hesitate to go to trial.

In the six-part series, you will discover the processes, the nuances, and the tools of persuasion that will allow you to connect deeply with jurors. I will teach you how to plumb the jurors’ feelings. I will give you the confidence to stand in front of the jury as you walk the tightrope that is the jury selection.

[Find out more at MasteringTheCourtroom.com](http://MasteringTheCourtroom.com)