



Taking Advantage of the Other Party's Experts: Cross Examination Tips

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ADVOCACY SKILLS 2008: PROVEN TECHNIQUES TO GIVE YOU THE COMPETITIVE EDGE

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GET THE EXPERT'S FILE

- *Vancouver Community College v. Phillips Barratt et al*, (1987), 20 B.C.L.R. (2d) 289
 - Earlier the better
 - Entire file including letter of instruction, drafts, emails etc.
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ATTACK THE CREDENTIALS

- Typically not the basic qualifications
 - Scrutinize the C.V.
 - Know the expert's actual practice
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USE THE INTERNET

- Generally
 - Case authorities
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DIVIDE AND CONQUER

- Generate disagreement from the expert with respect to assertions advanced by another of the same party's experts.

UNDERMINE FACTUAL ASSUMPTIONS

- Be intimately familiar with the clinical records/raw data
- Look for what is missing, inadvertently or purposefully
- Expose reliance on other expert's opinions
- Where possible, put facts to the expert elicited in evidence which are inconsistent with the expert's theory/opinion

EXPLOIT BIAS

- Whose side?
 - Offering opinions in areas outside of expertise
 - Offering opinions on credibility
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KNOW THE SCIENCE

- Expert's may "fudge" the science
 - Do a literature search
 - Use your own expert to educate you
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