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# CROSS EXAMINATION: A QUESTION OF CONTROL

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# TABLE OF CONTENTS

PREPARATION ..... 1
Who Is The Witness ..... 1
Subject Matter for Fact Witness ..... 2
Subject Matter for Expert Witness ..... 2
Information about Expert Witness ..... 3
DEPOSITION ..... 3
CROSS-EXAMINATION ..... 5
Additional Cross-Examination Tips ..... 7
Impeachment ..... 8
SCOPE OF CROSS EXAMINATION ..... 9
Texas ..... 9
Federal ..... 11
QUALIFICATION OF EXPERT WITNESS ..... 11
IMPEACHMENT ..... 13
Litigation Experience ..... 13
Financial Interest In The Outcome Of The Case ..... 15
Prior Testimony Of Expert ..... 15
Use Of Treatises And Literature ..... 15
No Impeachment On Collateral Matters ..... 17

## TABLE OF AUTHORITIES

**Cases**

Barrios v. Davis, 415 S.W.2d 714 (Tex. App.—Houston [1st Dist.] 1967, no writ)..... 13
Bierschwale v. Oakes, 497 S.W.2d 506 (Tex.Civ.App.—Houston [1st Dist.] 1973),
rev'd on other grounds, 516 S.W.2d 125 (Tex.1974) ..... 17
Cantu v. Del Carmen Pena, 650 S.W.2d 906
(Tex. App.—San Antonio 1983, writ ref'd n.r.e.)..... 13
Christie v. Brewer, 374 S.W.2d 908 (Tex. Civ. App.—Austin 1964, writ ref'd n.r.e.)..... 17
CPS Int'l, Inc. v. Harris & Westmoreland, 784 S.W.2d 538
(Tex. App.—Texarkana 1990, no writ)..... 9
Daubert v. Merrell Dow Pharm., Inc., 509 U.S. 579, 113 S.Ct. 2786 (1993)..... 12, 13
Davis v. Marshall, 603 S.W.2d 359 (Tex. Civ. App.—Houston [14th Dist.] 1980,
writ ref'd n.r.e.) ..... 16, 17
E.I. du Pont de Nemours & Co. v. Robinson, 923 S.W.2d 549 (Tex. 1995)..... 12, 13
French v. Brodsky, 521 S.W.2d 670 (Tex. Civ. App.—Houston [1st Dist.] 1975,
Gammill v. Jack Williams Chevrolet, Inc., 972 S.W.2d 713 (Tex.1998)..... 12
General Motors Corp. v. Simmons, 558 S.W.2d 855 (Tex. 1977) ..... 15
Gravis v. Physicians and Surgeons Hospital of Alice, 415 S.W.2d 674
(Tex. Civ. App.—San Antonio 1967), writ granted and judgment rev'd on other grounds,
427 S.W.2d 310 (Tex. 1968)..... 16
Hanover Ins. Co. v. Johnson, 397 S.W.2d 904
(Tex.Civ.App.—Waco 1965, writ ref'd n.r.e.)..... 17
Hogue v. Kroger Store No. 107, 875 S.W.2d 477
(Tex. App.—Houston [1st Dist.] 1994, writ denied) ..... 10
Horton v. Houston & T.C. Ry. Co., 103 S.W. 467 (Galveston 1907, writ ref'd)..... 15
In re Doctors' Hospital of Laredo, 2 S.W.3d 504
(Tex. App.—San Antonio 1999, orig. proceeding)..... 14
In re Plains Mktg., L.P., 195 S.W.3d 780 (Tex. App.—Beaumont 2006, orig. proceeding)..... 14
In re Wharton, 226 S.W.3d 452 (Tex. App.—Waco 2005, orig. proceeding)..... 14
King v. Bauer, 767 S.W.2d 197 (Tex. App.—Corpus Christi 1989, writ denied)..... 17
Leyendecker v. Strange, 204 S.W.2d 845
(Tex.Civ.App.—Galveston 1947, writ ref'd n.r.e.)..... 17
Mauldin v. State, 14-08-00419-CR, 2010 WL 1486959
(Tex. App.—Houston [14th Dist.] Apr. 15, 2010, no pet.)..... 15
Milkie v. Metni, 658 S.W.2d 678 (Tex. App.—Dallas 1983, no writ)..... 11, 12
Moore v. Standard Fire Ins. Co., 461 S.W.2d 213
(Tex. Civ. App.—Amarillo 1970, writ ref'd n.r.e.)..... 16
Norrid v. State, 925 S.W.2d 342 (Tex. App.—Fort Worth 1996, no pet.) ..... 10
Olinger v. Curry, 926 S.W.2d 832 (Tex. App.—Fort Worth 1996, orig. proceeding) ..... 13

Perry v. State, 236 S.W.3d 859 (Tex. App.—Texarkana 2007, no pet.) ..... 10
Republic Nat'l Life Ins. Co. v. Heyward, 568 S.W.2d 879
(Tex. Civ. App.—Eastland 1978, writ ref'd n.r.e.) ..... 15
Russell v. Young, 452 S.W.2d 434 (Tex. 1970) ..... 14
Scurlock Oil Co. v. Smithwick, 724 S.W.2d 1 (Tex. 1986) ..... 15
Shepperd v. Troilo, 513 S.W.2d 813 (Tex. 1974) ..... 14
Sparks v. State, 943 S.W.2d 513 (Tex. App.—Fort Worth 1997, pet. ref'd) ..... 15
St. Louis & S.F. Ry. Co. v. Clifford, 148 S.W. 1163
(Tex. Civ. App.—Dallas 1912, writ ref'd n.r.e.) ..... 15
Texas Turnpike Authority v. McCraw, 458 S.W.2d 911 (Tex. 1970) ..... 10
Torres v. Danny's Serv. Co., Ltd., 266 S.W.3d 485
(Tex. App.—Eastland 2008, pet. denied) ..... 10
Traders and Gen. Ins. Co. v. Robinson, 227, 266
(Tex. Civ. App.—Texarkana 1949, writ ref'd) ..... 13
U.S. v. Tomblin, 46 F.3d 1369 (5th Cir. 1995) ..... 11
Walker v. Packer, 827 S.W.2d 833 (Tex. 1992) ..... 14
Wendell v. Central Power and Light Co., 677 S.W.2d 610
(Tex. App.—Corpus Christi 1984, writ ref'd n.r.e.) ..... 16

**Rules**

Fed. R. Evid. 611 ..... 11
Fed. R. Evid. 611(b) ..... 11
Tex. R. Civ. P. 192.3(e)(5) ..... 13,14
Tex. R. Evid. 401 ..... 10
Tex. R. Evid. 602 ..... 1
Tex. R. Evid. 611(a) ..... 10
Tex. R. Evid. 611(b) ..... 9
Tex. R. Evid. 613(a) ..... 8
Tex. R. Evid. 613(a)(1) ..... 8
Tex. R. Evid. 613(a)(2) ..... 8
Tex. R. Evid. 613(a)(3) ..... 8
Tex. R. Evid. 613(a)(4) ..... 9
Tex. R. Evid. 702 ..... 12
Tex. R. Evid. 803(18) ..... 15

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Control is the key to effective cross-examination. Preparation is the first step in taking control. Effective cross-examination begins with learning about the witness and the subject matter, fully exploring the witness' testimony in deposition, and knowing the applicable law. With this framework, you can develop a cross-examination strategy.

## PREPARATION

### Who Is The Witness

How you prepare and what you do to prepare will depend upon the witness. Is the witness a fact witness or an expert witness? A witness who is not an expert witness may testify only if the witness has personal knowledge of the subject matter. Tex. R. Evid. 602. Consequently, areas of inquiry of a fact witness might include:

- The witness' opportunity to observe or know the facts.
- The witness' ability to recall the facts.
- Whether the witness has a bias.
- Prior inconsistent statements by the witness.

Areas of inquiry for an expert witness could include:

- The witness' qualifications to testify on the subject matter.
- The witness' methodology in forming opinions.
- Whether the witness has sufficient data to form opinions.
- What the witness' opinions are.

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First appeared as part of the conference materials for the
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"From Deposition to Cross-Examination: Finding It, Organizing It, and Using It"