

2019**Car Crash Seminar**

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**CROSS EXAMINATION:
A QUESTION OF CONTROL****Mike Davis**

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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
2019 Car Crash Seminar session

"From Deposition to Cross-Examination: Finding It, Organizing It, and Using It"