

VOTE ON THE OUTCOME:

Dr. Expert testifies: I examined the patient, I am double board certified as both an orthopedic surgeon and a pain management doctor. I testify, to a reasonable degree of medical probability – actually, to a medical CERTAINTY – the Plaintiff's herniated discs in neck and back were caused by the motor vehicle collision. He needed the multiple diskectomies and fusions, which I performed, because of the wreck. [And proves up reasonable and necessary bills.]

Defendant **does not object** to this evidence at trial.

Defendant **does not object** to this evidence at the Court of Appeals.

Defendant **objects for the first time on appeal** to the Texas Supreme Court that the evidence is legally insufficient to support your \$3.8M judgment.

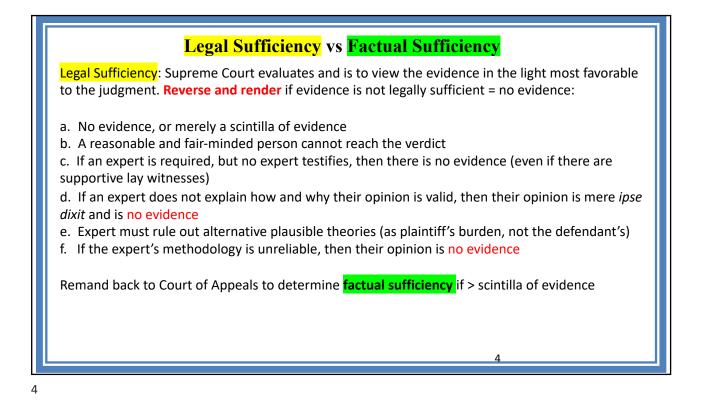
Who thinks the Plaintiff keeps his judgment?

Conclusory Testimony From an Expert is **No** evidence.

Reverse and Render.



"conclusory statements cannot support a judgment even when no objection was made to the statements at trial." Coastal Trans. Co. (Tex. 2004)



Lega	l Sufficiency vs <mark>Factual Sufficiency</mark>
Factual Sufficie	ncy: evaluated by Court of Appeals
	evidence that both supports and contradicts dict in a neutral light.
Verdict is ago	inst the greater weight of the credible evidence; or
	that supports the finding is so weak as to dict clearly wrong and manifestly unjust.
	x. Court of Appeals: TRAP 43.2 and 43.3: affirm, modify, reverse everse and remand, dismiss case, dismiss appeal.
	5

Relevant evidence is admissible unless any of the following provides otherwise:

\* the United States or Texas Constitution;

\* a statute;

\* these rules; or

• other rules prescribed under statutory authority.

Irrelevant evidence is not admissible. *Tex. R. Evid.* 402

> "[A] party may assert **on appeal** that unreliable scientific evidence or expert testimony is not only inadmissible, but also that its unreliability makes it **legally insufficient** to support a verdict. *Whirlpool Corp. v. Camacho*

6

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## Title search: Proving Causation and Sufficiency of Evidence

Also available as part of the eCourse <u>Car Crash Trial Tactics (2024)</u>

First appeared as part of the conference materials for the 2024 The Car Crash Seminar session "Proving Causation and Sufficiency of Evidence"