**TIMING**

**EACH ACT IS ~7-10 Minutes**

**QUESTIONS ~7-8 minutes per Act EACH**

**Characters:**

**Snow White**

**Sneezy, Snow White’s counsel**

**Doc, Snow White’s expert**

**Queen**

**Grumpy, Queen’s counsel**

**Ms. Mirror, Queen’s expert**

**Judge Sleepy**

**Dr. Dopey, colleague of Doc**

**Happy - junior associate of Grumpy**

**Bashful - junior associate of Grumpy**

**Act I**

**Script:**

***[FLUTE SOLO CUES FROM ANDREA/ PPT Slide 1: Dwarves in Mine]***

***[Heigh Ho Intro – All the characters march in to the Heigh Ho]***

Heigh Ho

Heigh Ho

it's off to court we go

Frye & Daubert are on the Docket

Heigh Ho

Heigh Ho

***[TAKE PLACES – LIGHTS GO DOWN***

***PPT Slide 2: \*People’s Court WITH Music\****

***MUSIC PLAYS FOR 30 seconds, half BEFORE LIGHTS GO ON]***

***[PPT Slide 3: Snow White v. Evil Queen]* End Music**

**Will:** This is the Plaintiff, Queen Grimhilde.She is bringing a declaratory judgment action, seeking a determination that she is the most beautiful person in the Kingdom. As a purported expert, the Queen offers Ms. Mirror, who professes to be an expert based on her vast experience looking at individuals, but Ms. Mirror may need to take a good look at her own reflection.

This is the Defendant, Snow White. Snow White counterclaims for a declaration that she is, in fact, more beautiful than the Queen, and further claims intentional infliction of emotional distress for which she seeks $1 trillion Kingdom galleons in cosmetic compensatory damages and pretty punitive damages.

Snow White’s counsel, Attorney Sneezy, objects to the Queen’s expert, and through voir dire examination, asks questions directed toward showing that Ms. Mirror does not satisfy the Frye standard, and seeks to have Ms. Mirror’s testimony excluded.

Real Cases. Real Litigants. Here in our forum, The People’s Court.

**Judge Sleepy:** In the matter of the Queen versus Snow White, we continue the trial commenced yesterday. Queen, please call your next witness.

***[PPT 4: Glimmer Reflecting Mirror]***

**Atty Grumpy:** Your Honor, we call Ms. Mirror as our expert witness.

**Judge Sleepy:** Raise your right hand. Do you swear to tell the truth, the whole truth and nothing but the truth?

***[PPT 5: Scene from shrek where in the henchman breaks a Mirror]***

***[PPT 6: Glimmer Reflecting Mirror]***

**Ms. Mirror:** Alas, I do.

**Judge Sleepy:** Very well, proceed counsel.

**Grumpy:** Please tell us your name, and your background

**Ms. Mirror:** I am Ms. Mirror. Perfect reflection of everything I see. I have been a mirror since 1900. I have been hanging in the Royal Castle of the Kingdom, in the Queen’s royal court, since 1901.

**Grumpy:** Do you ever lie about what you see? You’re not one of those long skinny mirrors they put in department store, are you?

***[PPT 7: Dog mirror] [PPT 8: Glimmer Reflecting Mirror]***

***[PAUSE]***

**Ms. Mirror:** Never! I reflect exactly what I see, exactly as I see it.

**Grumpy:** Can you tell if someone is beautiful?

**Ms. Mirror:** Of course!

**Grumpy:** And what is your methodology for determining beauty?

**Ms. Mirror:** As a mirror of over 100 years old, I have seen countless individuals. Lovely maidens I see; rags cannot hide gentle grace; lips red as roses; hair soft and luscious; and skin pure as snow - in sum, I have seen every type of person. I know beauty because I see everything perfectly, and I reflect everything perfectly.

**Grumpy:** Your Honor, we offer Ms. Mirror as an expert witness.

**Sneezy:** [Loud Sneeze] OBJECTION. Your Honor, I request the opportunity to voir dire.

**Judge Sleepy:** Hm?

**Sneezy:** Your Honor? Voir dire?

**Judge Sleepy:** Right, right. Go ahead.

**Sneezy:** Thank you. Ms. Mirror, you live in the Castle, right?

**Ms. Mirror:** Alas, yes.

**Sneezy:** In the Queen’s Castle, right?

**Ms. Mirror:** Yes.

**Sneezy:** If you did not live there, you would have no home, right?

**Ms. Mirror:** Well! I am sure I could find another place to live. After all, this is Palm Beach County.

**Sneezy:** Have you ever been accepted by a court as an expert witness?

**Ms. Mirror:** Alas, no.

**Sneezy:** Has your methodology for determining beauty ever been accepted by any other individuals in the beauty industry?

**Ms. Mirror:** Well, I operate like every other mirror! Isn’t that good enough?

**Sneezy:** Have you ever been asked to compare two individuals’ relative beauty?

**Ms. Mirror:** Yes -- every day the Queen asks who is the fairest of them all.

**Sneezy**: Have you ever been asked to compare two individuals by anyone other than the Queen?

**Ms. Mirror:** Alas, no.

**Sneezy:** In fact, you live in the Queen’s dressing room. Have you even seen anyone other than the Queen and her maids before you came to the courtroom today?

**Ms. Mirror:** No. Not directly, but I can see through every mirror in the Kingdom.

**Sneezy:** When the Queen asks you every day who is the fairest of them all, how do you respond?

**Ms. Mirror:** Like every smart citizen in the kingdom, I tell my queen she is the most beautiful woman I have ever seen.

**Sneezy:** Thank you. Your Honor, we object to the witness. Under the Frye standard applied by the court, she does not qualify as an expert witness and her testimony should not be permitted. Further, she is indisputably biased in favor of the Queen.

**Grumpy:** Your Honor, Frye is not the appropriate standard, Daubert is. And counsel has failed to identify any basis for not permitting Ms. Mirror to testify under Daubert, which is her burden. Finally, any question of bias goes to weight, not admissibility.

**Judge Sleepy**: Hmmm. All good questions. I appear to have missed some of what was just addressed, so perhaps I could get some help…

**[PPT 9-13 Questions]**

**QUESTIONS FOR DISCUSSION:**

* **What is the appropriate standard in Florida - Frye or Daubert?**
* **What are the differences?**
* **Would Ms. Mirror satisfy either standard? Why or why not?**

***[PPT 14-15 – People’s Court and QUEEN V. SNOW WHITE]***

**ACT II**

**Will:** Defendant Snow White offers her own expert witness, “Doc.” Doc is a plastic surgeon. Counsel for the Queen, Attorney Grumpy, objects, and through voir dire examination, asks questions directed toward demonstrating that Doc fails to satisfy the Daubert standard.

Attorney Grumpy seeks to have Doc excluded. Let’s see what happens…

**Judge Sleepy:** We are on day 3 of the Queen versus Snow White trial and I’m exhausted. Defendant, please call your next witness.

**Atty Sneezy**: [Sneeze] Defendant calls its expert witness, Doc.

**Judge Sleepy:** Raise your right hand. Do you promise to tell the truth, the whole truth and nothing but the truth?

**Doc:** I do.

**Atty Sneezy:** Doc, what is your profession?

**Doc:** I’m a plastic surgeon.

**Sneezy:** Please tell the court about your background and training.

**Doc:** I graduated from Kingdom College in 1940. I attended medical school at Enchanted Forest Medical School from 1941 until 1950. I began an internship in 1950 for cosmetic surgery. In 1960 I opened my own cosmetic surgery practice here in Palm Beach County and have lived happily ever after.

**Sneezy:** How do you tell if someone should have cosmetic surgery?

***[PPT 16: Plastic Surgery Ads]***

**Doc:** Many ways. First, if they express a desire to be more beautiful, or tell us something about themselves that they don’t like. The customer is often correct in their self-assessment, so if they think something needs to be fixed, they are usually right. Second, if they are getting older, they may need cosmetic surgery to sort of put things back in its original place. And finally, if they live in Palm Beach County, they need plastic surgery since everyone in Palm Beach has plastic surgery.

**Sneezy:** Can you tell if one person the fairest of them all?

***[PPT 17: Beyonce] KEEP UP UNTIL DOC POiNTS TO IT***

**Doc:** Sure. There are various measurements we can do, including measuring the symmetry of the face. Humans inherently believe that symmetry is attractive, so the more symmetrical the face, the more inherently beautiful the person is. In addition, my office uses a proprietary face-mapping technology that assesses various ratios -- mouth to nose, nose to eye, eye to eye, etc. There are particular ratios that are more pleasing to humans and we try to get each patient as close to the optimal ratio as possible. These are the same ratios that artists like Michelangelo and Leonardo Da Vinci used to create mathematically perfect subjects for their art.

I wrote an Article about it for the Daily Mail…there it is! ***[point to screen]***

***[PPT 18: Queen v. Snow White]***

**Sneezy:** Is the methodology generally accepted in the cosmetic surgery business?

**Doc:** Yes.

**Sneezy:** Did you apply the formula in assessing the comparative beauty of Ms. Snow White and Ms. Queen?

**Doc:** Yes, I did.

**Sneezy:** And what was your result?

**Grumpy:** OBJECTION! That sounds like junk science to me. Just marketing to drive your business. Your Honor, I request the opportunity to voir dire the witness.

**Judge Sleepy:** Hmmm….again?...okaaaaayyyyy

**Grumpy:** Have you ever published any papers on your methodology?

**Doc:** Yes

**Grumpy:** Were those papers peer-reviewed?

**Doc:** Some were, some were not.

**Grumpy:** Has any court ever accepted you as an expert witness?

**Doc:** Well, no.

**Grumpy:** Does your current practice involve cosmetic surgery for the face? I heard you mostly do gastric bypass these days.

**Doc**: I handle all aspects of cosmetic surgery. In fact, I have an exceptional rhinoplasty practice.

***[PPT 19: Jennifer Grey]***

[Sneezy erupts into sneezes]

**Doc:** An unfortunate side effect….

***[PPT 20: Queen v. Snow White]***

**Grumpy:** Doc, you have been a plastic surgeon for 60 years?

**Doc:** Yes

**Grumpy:** Can you even see anymore??? You seem very old to me.

**Doc:** [Pushes glasses up] I can see just fine.

**Grumpy:** Well, you don’t look very good yourself. Maybe you should be your own client.

**Sneezy:** OBJECTION. Your Honor, this questioning is pointless and harassing. [Sneezing] And frankly, I’m sick of it!

**Judge Sleepy:** [Lifts sleep mask] Ummmm

**Grumpy**: Your Honor, we object to the witness’s testimony. She is not an expert, and she should be excluded.

**Doc:** Your Honor, come see me after trial -- I have some excellent treatments for narcolepsy. [**Pulling out several bottles of pills and setting them in front of the judge**]

**Judge Sleepy:** Hmmmm. Oh, no thank you. It just these cases [pats large pile of papers], but I could use some help on this one…

***[PPT 21: Qs 4-6] [PPT 22-23: Answers 4-6]***

**QUESTIONS FOR DISCUSSION:**

* **Is Grumpy correct that the objecting attorney bears the burden of demonstrating that the adverse party’s proposed expert is not qualified under Daubert?**
* **Is Grumpy correct that the issue of an expert witness’ bias goes to weight, not admissibility?**
* **Does Doc satisfy the Daubert standard? Why or why not?**

***[PPT 24: Q 7] [PPT 25: Answer 7]***

* **Were there any ethical problems with Grumpy’s cross-examination of Doc?**

***[PPT 26-27 – People’s Court and QUEEN V. SNOW WHITE]***

**Act III**

**Will:** Doc has been admitted to offer expert testimony. Snow White’s counsel elicits testimony that Doc believes, in her expert opinion, that Snow White is the most beautiful woman in the realm. Let’s find out…

**Judge Sleepy:** The court determines that Doc may provide opinion testimony as an expert witness. Sneezy, please proceed.

**Sneezy:** Doc, have you reviewed the allegations in the lawsuit?

**Doc:** I have.

**Sneezy:** Applying the methodology you previously described for us, have you reached a conclusion as to the relative beauty between the Queen and Snow White?

**Doc:** I have.

**Sneezy:** And what is that conclusion?

**Doc:** Snow White is definitely the fairest of them all.

**Sneezy:** Thank you, nothing further.

**Grumpy:** Doc, prior to your involvement in the lawsuit, had you seen the Queen?

**Doc:** Yes, I did. She’s the Queen! Her face is everywhere in the Kingdom.

**Grumpy:** Doc, prior to the lawsuit, had you ever seen the Queen in person?

**Doc:** Yes, I did.

**Grumpy:** It’s true, is it not, that prior to the lawsuit, the Queen came to visit you in your office for a consultation?

**Doc:** Yes, that’s true.

**Grumpy:** And during that consultation, the Queen asked you for your assessment of her beauty, did she not?

**Doc:** Yes, she did

**Grumpy:** And you advised the Queen not to undergo any cosmetic surgery, right?

**Doc:** Yes, I did. Even when she listed all the things about herself she didn’t like, and things she felt insecure about, I told her she did not need cosmetic surgery.

**Grumpy**: And you told the Queen, didn’t you, that she was the fairest of them all?

**Doc:** I had to! She’s my queen. Otherwise, well, you know what she says -- (*shouting*) off with her head!

**Grumpy:** (*in a loud whisper)* Different fairytale, sir. Pay attention.

**Doc:** Sorry, sorry. Yes, I told her that.

**Grumpy:** Doc, you have a partner in your business, don’t you?

**Doc:** Yes, my colleague, Dr. Dopey.

**Grumpy:** Are you aware that Dr. Dopey contacted my client, the Queen, regarding the lawsuit?

***ONSCREEN ONLY NO LIVE ACTION***

***[PPT 28: Video: Dr. Dopey, sitting and talking into a telephone; her desk is covered with pill bottles, and she’s smoking a joint as she speaks in a slurred voice]***

***Dopey:*** *Hello, hello hello…Your Majesty, Your Excellency? Your most beautiful? Majesty? Yes, yes, yes….you’ve no doubt heard of me? It’s Dr. Dopey!!*

***[Dopey inhale on joint]***

***Dopey:*** *I read about your lawsuit in the papers. Terrible, terrible, the pale, pasty-white little girl! She looks like she hasn’t seen the sun in years! How could she be the fairest of them all? Of course, of course, you are the most beautiful in all the land!*

*But still, you will no doubt be needing an expert for the case, right? My partner and I would be happy to assist. Our rates are very reasonable, and we will say whatever you need us to say.*

***[Video end: focus is re-directed to Doc on the witness stand]***

***[PPT Slide 29: Snow White v. Evil Queen]***

**Grumpy:** Doc, were you aware that Dr. Dopey made that call to the Queen?

**Doc:** No, I had no idea!

**Grumpy:** Doc, did you tell Snow White and her counsel that you would say whatever they want you to say in the lawsuit?

**Sneezy:** OBJECTION! Counsel is clearly inquiring into privileged communications!

**Judge Sleepy:** What? Hm. Oh, sustained.

**Grumpy:** Doc, what fees are you charging for your testimony?

**Sneezy:** OBJECTION! That is also privileged information!

**Judge Sleepy:** What? Oh, yeah. Overruled.

**Doc:** I am paid $2,000 per hour for my preparation and testimony. And I get the standard 30% of any amounts that Snow White recovers on her emotional distress claim.

**Grumpy:** Your Honor, we move to strike the witness’ testimony. She is a hired gun, her partner had impermissible communications with my client, and she’s being paid far too much. The woman would say anything -- she is simply not a credible witness and the jury should not believe a word she says.

**[Grumpy’s junior associates, Bashful and Happy, have moved to behind Snow White’s counsel’s table. Bashful starts stealing the papers on Snow’s White’s counsel’s desk, and leaves a red apple in front of a distracted Snow White, while Happy starts going through Sneezy’s purse. Happy pulls out Benadryl and tissues from Sneezy’s purse.**

**Grumpy continues:** Moreover, Doc’s disciplinary history before the Royal Medical Board is staggering (showing Doc a stack of papers meant to be disciplinary records, and throwing them in the air for effect), isn’t it?

And Doc has had several citations for driving under the influence of marijuana, prescribed by her dealer, I mean colleague, Dr. Dopey! (again, shaking a stack of papers at Doc, then throwing them in the air)

**Sneezy:** Your Honor! We object to counsel’s statements and argument! [Sneezing] Her conduct is sickening!

[**Snow White notices the apple, takes a bite, and in a great flourish passes out - pandemonium ensues**]

**Queen:** Look at this lazy/dramatic/hysterical/crazy girl. What ***does*** the Prince see in her?

**[Prince rides in on horse. Horse stops at Counsel table for the Queen. Poops and walks over to Snow White. Horse Kisses Snow White and is revived]**

**Judge Sleepy:** Mistrial! We’ll start again tomorrow.

**[PPT Slides 30-34: Snow White v. Evil Queen]**

**QUESTIONS FOR DISCUSSION:**

1. **What are some ETHICAL concerns in Act III?**

* **Were the judge’s rulings regarding inquiry into communications among counsel, client and expert witness correct?**
* **Did Snow White’s counsel violate any ethical rules in hiring Doc?**
* **Did the Queen’s counsel violate any ethical rules in her cross-examination of Doc?**
* **Did Happy and Bashful violate any ethical rules? If so, are they exonerated if Grumpy ordered them to engage in the subject conduct? If Grumpy did not order Happy and Bashful to engage in the conduct, is she still implicated?**
* **Are there are any other ethical concerns raised by the scene?**

***[PPT Slide 36: Snow White v. Evil Queen]***

**Will:** So Snow, seems like you didn’t whinny, but you didn’t losy either?

**Snow White:** Oh, stop horsing around.

**Will:** Queen, how do you feel about Frye and Daubert?

**Queen:** I’m still not sure which standard applies, but who needs them. Clearly, I’m the fairest of them all.

**[The Expert Pokey]**

You put your Frye hand in  [LEFT HAND, TURN TO RIGHT]

You put your Frye hand out

You put your Frye hand in

You shake your science all about

You do the expert pokey and you turn yourself around

That's what it's all about

You put your Daubert hand in [RIGHT HAND, TURN TO RIGHT]

You put your Daubert hand out

You put your Daubert hand in

You shake the theory all about

You do the expert pokey and you

turn yourself around

That's what it's all about

You do the expert pokey  [JAZZ HANDS, hands forward]

You do the expert pokey [Index Fingers, Shooting guns forward]

You do the expert pokey [JAZZ HANDS, hands up]

That's what our skit's about!!! [L hand, turn to right, left hand out, right hand up]

*ALL YELL* **GRAY’S INN!**

*[PP: 37 Fairest of Them All LAST SLIDE]*