



Program Title _____
 Date Presented _____ Inn Year _____
 Presenting Inn _____ Inn State _____
 Contact Person _____ Phone _____
 E-mail Address _____

Please consider this program for the Program Awards: Yes No This program is being submitted for Achieving Excellence: Yes No
 (For both Achieving Excellence credit and program award consideration, please submit within 60 days of presentation.)

Program Summary:

Be concise and detailed in summarizing the content, structure, and legal focus of your program. Please attach additional sheets if necessary.

Program Materials:

The following materials checklist is intended to insure that all the materials that are required to restage the program are included in the materials submitted to the Foundation office. **Please check all that apply and include a copy of any of the existing materials with your program submission:**

Script	Articles	Citations of Law	Legal Documents	Fact Pattern	List of Questions	Handouts
PowerPoint Presentation	DVD	Other Media (Please specify)				

Specific Information Regarding the Program:

Number of participants required for the program _____ Has this program been approved for CLE? Yes No
 Which state's CLE? _____ How many hours? _____ Pending Approved

Recommended Physical Setup and Special Equipment:

i.e., DVD and TV, black board/white board, easel for diagrams, etc.

Comments:

Clarify the procedure, suggest additional ways of performing the same demonstration, or comment on Inn members' response regarding the demonstration.

Submit this completed form along with all program materials to: programlibrary@innsofcourt.org

Program Submission Form

Roles:

List the exact roles used in the demonstration and indicate their membership category; *i.e.*, Pupil, Associate, Barrister or Master of the Bench.

Role	Membership Category

Agenda of Program:

List the segments and scenes of the demonstration and the approximate time each item took; *i.e.*, "Introduction by judge (10 minutes)."

Item	Time

Program Awards: *Please complete this section **only** if the program is being submitted for consideration in the Program Awards.*

Describe how your program fits the Program Awards Criteria:

Relevance: How did the program promote or incorporate elements of our mission? *(To inspire the legal community to advance the rule of law by achieving the highest level of professionalism through example, education and mentoring)*

Entertaining: How was the program captivating or fun?

Creative and Innovative: How did the program present legal issues in a unique way?

Educational: How was the program interesting and challenging to all members?

Easily Replicated: Can the program be replicated easily by another Inn? Yes No This program is: Original Replicated

Questions:

Please contact us at (571) 319-4713 or by e-mail at programlibrary@innsofcourt.org.

Please include ALL program materials. The committee will not evaluate incomplete program submissions.

For tips on completing form see:

https://home.innsofcourt.org/AIC/AIC_For_Members/AIC_Program_Lib/Program_Library_Submissions.aspx



Expert Witnesses

Gus Solomon Inn of Court
October 2025



Expert Witnesses

I. Finding & Preparing

II. Qualifying

III. Direct & Cross





The Purpose of Expert Testimony

The purpose of expert testimony is to aid the trier of fact in its search for the truth. The expert's opinion or inference-drawing must be likely to assist in this process.

Galego v. Knudsen, 281 Or. 43 (1978)



Lay Witness v. Expert Witness

What is legal significance of “expert?”

- Offers opinions outside the knowledge of a layperson.
- Possesses specialized knowledge, skill, experience, training, or education, such as:
 - technical; scientific; medical; industry standards in application of audit principles; handwriting expert; computer forensic (metadata about computer files); specialized experience as trained police officer



Why Would I Want Or Need An Expert?

Expert may be needed if a particular element of a claim or defense requires specific knowledge:

- Patent case
- Accounting/Audit commercial case:
- Contract case
- Computer forensic
- Family law
- Specialized experience

How To Find An Expert





How To Find An Expert

Ways to identify potential experts:

- Look at who has been used before (find appellate cases then reverse engineer);
- Expert farms (proprietary clearinghouses that match potential experts with counsel);
- Canvas colleagues (candid pros and cons input from trusted voices).

What Did They Say They're An Expert In?

Fun Uses of Experts

1. Music Did Led Zeppelin steal the riff from "Stairway to Heaven"? Did Vanilla Ice steal "Pressure" from David Bowie and Queen to make "Ice, Ice Baby"? Is the theme from "Ghostbusters" a remake of Huey Lewis "I Wanna New Drug"?
2. Healing Crystals Did a seller make misrepresentations about origin of 8' crystals
3. Pig Neosporin Testing spray antibiotic on surface of skin of dead pig



Retaining Experts – Ethical Concerns

- Conflicts;
- Use of client confidential information when interviewing experts;
- Ethics in fee structures for retention:
 - Compensation;
 - Optics of comp structures to jury.



Preparing Your Expert — What is the expert being used for?

Drafting Assistance

1. State-required affidavit or certificate attesting to meritorious claim? (Not required in Oregon).
2. Confirm correct terminology; pronunciation;
3. Review pleadings for erroneous thinking in advance of reply;
4. Accurate industry expectation/standard of care?

Discovery Review

1. Discuss outlined legal issues
2. Discuss output.

Trial Testimony

1. Discuss pretrial negotiations/rulings likely to impact the scope or content of your expert's testimony.
2. Facilitate your expert's presence for other relevant testimony.





Requirements for Admissibility of Expert Testimony - OEC 702

There are three general requirements for the admission of expert testimony under Oregon Rule of Evidence 702:

1. **Qualification of the Expert**

(State v. Hilding, 320 Or.App. 487 (2022))

2. **Helpfulness of the Testimony**

(O.R.S. § 40.410)

3. **Adequate Foundation**

(State v. Trujillo, 271 Or.App. 785 (2015))



Qualifying the Expert

The witness must be qualified as an expert on the particular topic.

(State v. Hilding, 320 Or.App. 487 (2022))

- The subject matter involved is "sufficiently technical."
- Technical subjects beyond the understanding of the ordinary lay juror.
- Qualification then requires that showing that the proposed expert has the type of education, training, or experience that qualifies him to give opinion testimony about his area of expertise.
- Practically, walking an expert through his CV or resume to establish the education, training and expertise needed to support his ability to offer opinion evidence.

Qualifying the Expert - Scientific Evidence

The admissibility of scientific evidence implicates three provisions of the evidence code.

OEC 401 defines relevant evidence as

"evidence having *any* tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence."

OEC 702, which sets the standard for admission of scientific evidence, provides:

"If scientific, technical or other specialized knowledge will assist the trier of fact to understand the evidence or to determine a fact in issue, a witness qualified as an expert by knowledge, skill, experience, training or education may testify thereto in the form of an opinion or otherwise."

OEC 403 permits the trial court to exclude relevant evidence

"if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury, or by considerations of undue delay or needless presentation of cumulative evidence."

Jennings v. Baxter Healthcare Corp., 14 P. 3d 596 - Or: Supreme Court 2000



Qualifying the Expert

The court can and will exercise a gatekeeping function over what type of expert evidence is permissible. The court will require that the evidence be helpful to a jury.

"In determining whether scientific evidence is probative under OEC 401 and the relevancy and prejudice analysis implicated in OEC 702's helpfulness standard, we believe [that seven factors] * * * provide structure and guidance * * *."

Those factors are:

- (1) The technique's general acceptance in the field;
- (2) The expert's qualifications and stature;
- (3) The use which has been made of the technique;
- (4) The potential rate of error;
- (5) The existence of specialized literature;
- (6) The novelty of the invention; and
- (7) The extent to which the technique relies on the subjective interpretation of the expert.

State v. Brown, 687 P. 2d 751 - Or: Supreme Court 1984



Chris's Story Time



Qualifying the Expert: Question Topics for Establishing Expert

- Identity: name, address, or title (if appropriate)
- Qualifications
- Practice
- Boards
- Articles, papers, lectures
- Research
- Teaching
- Professional organization memberships
- Awards & honors
- History (hearsay problems)
- Examination
- Tests
- Diagnosis
- Treatment
- Prognosis
- Causal Relation
- Future Treatment



Qualifying the Expert - Issues to Consider

- Remind experts to use lay terms or to explain technical terms
- Subjective vs. objective examination
- Opinion questions should be crafted to show expert is careful and professional
- Relationship b/w expertise + subject matter doesn't need to be perfect
 - *However*, if witness is allowed to testify as expert, weight of testimony may be reduced



My Cousin Vinny **- Vito Not Vetoed.**



**Expert Creep
- Not Creepy Experts.**





Direct Examination - Three Goals

1. Establish the expert's credibility.
2. Present their data, methodology/analysis and conclusions.
3. Ensure that the expert's opinions are understandable and persuasive.



Direct Examination - Outline

1. Tell the jury why the expert is here.
2. Establish foundation for expertise and tender the witness.
3. Provide the major opinion.
4. Explore the basis for the major opinion.
5. Discuss weaknesses and restate major opinion.



Direct Examination - Tips

- Prepare, prepare, prepare
- Use lay terms wherever possible; explain technical terms
- Link findings to facts in dispute, making expert part of the story
- Step-by-step description of analysis–SIGN POST
- What, how, why questions
- The power of demonstratives



Cross-Examining An Expert

- 1. Framing & Objectives**
- 2. Building the Cross**
- 3. Key Takeaways & Closing Soundbite**



Cross Examination

Framing and Objectives

- **Goal** - Control, narrow, expose, highlight, anchor
- **Purpose** - Limit persuasive power
- **Importance** - Reframe narrative to protect theory
- **Theme** - Why expert opinion should not control
 - Set up for closing soundbite



Cross Examination

Building the Cross

- Credentials and Scope
- Method and Data
 - “Opinion pyramid”: data inputs → methods/standards → assumptions → conclusions
 - Source materials
 - Exhibits and demonstratives
- Sequencing
 - Self-contained “chapters”



Cross Examination

Key Takeaways and Closing Soundbite

- Key Takeaways

- Control
- Narrow
- Expose
- Anchor

- Closing Soundbite

- Key themes
- Simplify
- Align with case theory

Questions?



TEAM: Mike Truesdale, Sean Dunning, Anthony Li, Sophie Webster

- “The Verdict”
- Include services to find one?

I. What is an expert and why should I care? (MIKE)

What is expert

--An expert witness differs from fact witness in terms of being able to offer opinions outside the knowledge of a layperson.

--topics typically involve matters in the nature of technical, scientific, or medical questions

--could involve others (industry standards in application of audit principles, specialized experience as trained police officer with years on street on issue of intent to distribute...)

Do I need one?

--Expert testimony may be needed if a particular element of a claim or defense requires specific knowledge

--most obvious= standard of care in med mal, products cases, legal malpractice

--could be important in business disputes (industry practice, prove a signature, forensic analysis of computer files)

--could be important in family law (response to domestic violence, etc.)

II. How do I find an expert? (ANYONE _MIKE?)

--identify why you need an expert (topic)

--identify what experts have been used for issue before

--look at appellate cases

--Professional directories (services list witnesses with specialties in various areas)

--Pros quick way to find potential witness pool

--Con Other side may be looking at same pool; taint of a paid hired gun

--Not best practices (video clip)

III. Retention of potential expert and ethical concerns (SOPHIE?)

--Screening may require disclosure of client confidential info to potential expert (what steps to protect the info in the event expert is not retained? What permission from client?)

--Ethics in fee structure for expert testimony (flat fee/hourly/contingent?) (optics?)

--other issues? (respecting role of expert as neutral third party stranger to case offering opinion on facts)(ie overcoaching)

IV. Practical concerns upon engagement (SEAN?)

--Overview of different procedures in state and federal court

--disclosure

--expert reports

--whatever else at high level

- admission of expert testimony
 - Daubert hearing – court is gatekeeper
 - impact of admission (instruction that opinion can be considered)

V. Preparing expert witness (ANTHONY?)

- At what stage?
 - pre-litigation
 - using assistance of expert in drafting sufficient pleading
 - required expert statements (med mal/construction defects cases)
 - discovery (when applicable)
 - trial testimony
 - over/under coaching?

TEAM: Chris Larson, Mark Ginsberg, Lewis Farmer, Spencer Rossini

- “My Cousin Vinny”

10/8/2025 Meeting

- Qualifying - lack of formality
 - Are there ever issues with qualifying
 - 104 hearing - objecting and how they go
 - Qualified for what? General auto v. wheels

Spencer’s Slides

Qualifying an Expert Witness - Factors to Consider for Qualifying Witness

- Before expert testimony admitted into evidence, must “qualify” the witness → must establish witness is expert through:
 - Knowledge;
 - Skill;
 - experience;
 - Training; or
 - Education
- Qualifications *need not* be formal or academic
- Qualifications of expert must match subject matter of testimony.
 - E.g., general practitioner M.D. may or may not qualify as expert on diseases of the mind.
- Relationship b/w expertise + subject matter doesn’t need to be perfect
 - *However*, if witness is allowed to testify as expert, weight of testimony may be reduced

Qualifying an Expert Witness - Qualification Requirements

- The Rules for qualifying the witness are OEC 702 and FRE 702.
- Similar, though FRE expand more on what means to be qualified

Qualifying an Expert Witness - Question Topics for Establishing Expert

- Here are some of the topics one would want to ask a medical expert to qualify them, though many of these issues could and should be addressed to other experts
- Read through them

Qualifying an Expert Witness - Issues to Consider

- Here are issues you need to keep in mind when qualifying your expert

- Have them use lay terms or explain technical terms
- Know how to phrase questions when inquiring into subjective vs. objective examination of something
- Make sure your asking questions that make the expert look careful + professional
- If witness is allowed to testify as expert, weight of testimony may be reduced

TEAM: Sam, Matthew, Brittany

- Movie options - "A Few Good Men"
- Matt
 - Best practices for cross and direct
 - Tools and resources (NITA)
- Sam
 - Direct
- Brittany
 - Cross

Best Practices (Matt)

Oregon-Specific Foundations and Law (60 seconds)

- Expert admissibility standard
 - Oregon Evidence Code (OEC) focuses on OEC 702 (helpfulness/qualified), 703 (bases of opinion), 704 (ultimate issue), 403 (probative vs. prejudice), and 705 (disclosure of facts/data underlying opinions).
 - Emphasize Oregon's flexible reliability inquiry grounded in "fit," methodology, and nonspeculation; be ready to argue lack of sufficient facts or reliable methods under OEC 702/403.
- Hearsay/data bases (OEC 703)
 - Experts may rely on inadmissible data if reasonably relied upon in the field, but do not let this become a conduit for hearsay; seek limiting instructions; object to eliciting case-specific hearsay under the guise of "basis."
- Criminal nuances
 - Challenge forensic disciplines with documented error rates; scrutinize lab accreditation, uncertainty of measurement, proficiency testing, and analyst-specific error history.
 - Confront discovery compliance: in criminal cases, press for bench notes, calibration logs, software versions/algorithms, and validation studies; seek remedies if disclosures are incomplete.
- Civil nuances
 - ORCP expert disclosures: secure timely CVs, publications, reliance materials, and opinions; enforce supplementation; seek pretrial orders defining the opinion's scope.

Oregon-Specific Considerations

- Admissibility standard: Oregon follows the OEC and case law requiring that expert testimony assist the trier of fact and rest on a scientifically valid or otherwise reliable

foundation. Be prepared to challenge reliability pretrial via motions in limine and OEC-based hearings, and to renew those points on cross for weight.

- OEC highlights:
 - OEC 702: Qualifications and helpfulness. Probe whether the opinion falls within the expert's actual expertise.
 - OEC 703–705: Bases of opinion. You may examine the facts/data underlying the opinion, including inadmissible materials if reasonably relied upon by experts in the field. Consider eliciting that key bases are missing or outside customary reliance.
 - OEC 706: Learned treatises. Establish authoritativeness through the expert or judicial notice, then use for impeachment by reading the relevant statements to the factfinder.
 - OEC 403: Use to exclude or limit unduly prejudicial technical gloss that offers little probative value.
- Civil vs. criminal practicalities: In jury trials, keep technical cross tightly organized to avoid 403 problems. In bench trials, go deeper on methodological reliability and error rates. In criminal cases, be alert to discovery obligations and confrontation issues when the State's expert relies on non-testifying analysts; use cross to expose surrogate testimony problems.

Oregon Practice Tips and Pitfalls (45 seconds)

- Jury focus
 - Oregon jurors respond to clarity and fairness; avoid attacking credentials when the stronger ground is method and data.
- Timing and order
 - Consider taking the expert out of order to follow a foundational witness; use court's pretrial scheduling to obtain rolling productions of reliance materials.
- Language discipline
 - Avoid technical jargon; translate standards into plain language ("no known error rate," "not independently verified," "relies on assumptions, not measurements").
- Remind the court of OEC 705 rights
 - You may require the expert to disclose underlying facts/data on cross; use it to expose gaps succinctly.

Understanding the Expert

- Know the person, not just the CV: education, training, licensure, board certifications, subspecialties, publication history, retractions, prior testimony, and judicial critiques of methodology.

- Bias and financial interest: quantify compensation (hourly rate, total paid to date, percentage of income from forensic work), frequency of retention by one side, relationships with counsel, and “assembly-line” practices (template reports, limited file review).
- Track record: prior Daubert/O’Connor challenges, exclusions, or material impeachments; positions taken in other cases that conflict with today’s opinions.
-

DIRECT (Sam)

- **[transition]**
- **Three key goals of direct expert examination**
 1. Establish the expert’s credibility
 2. Present their data, analysis and methodology
 3. Ensure their opinions are understandable and persuasive
 - To these we’ll add a fourth, overarching goal: lead the fact finder to independently reach the conclusion for themselves. There is a simple litmus test of whether our instruction has succeeded: When we finally ask our expert for their opinion, the brains of the jurors should be whispering the answer before the witness responds. To take full advantage of the tools of persuasion, direct examination of our expert should include a thoughtfully crafted teaching chapter that precedes the expert’s disclosure and application of the relevant underlying facts.
- **Example direct exam outline.** One common examination outline with these goals in mind:
 - Tell the jury why the expert is here.
 - Establish foundation for expertise and tender the witness.
 - Provide the major opinion.
 - Explore the basis for the major opinion.
 - Discuss weaknesses and restate major opinion.

Preemptive strike anticipating cross. Acknowledge but minimize any potential weaknesses in opinion. Be especially succinct here whenever possible. End by reaffirming the opinion.

- **Preparation remains key.**

- We've talked about preparation already, but it bears repeating that prep is everything for a trial generally and expert testimony in particular. I personally use the rule of three when it comes to all major witnesses, experts included: I have a **minimum** of three prep sessions with witness before going into court. The first is to discuss and pick over my very rough outline of their testimony, ensuring that it hits all topics and important themes. Helping ensure that I understand subject matter. Second is to do a first dry run of testimony based on refined outline and input from first meeting. Final meeting is a second dry run closer to trial based on input from second meeting. Also this meeting where I mock cross-examine my witness. By end of this series of prep sessions, I have a very refined direct examination outline where I know every question I'm going to ask and every answer that it will elicit. NO surprises from my witness, expert or otherwise.
- In the case of experts, this process also helps insure that I know the subject matter of my expert's opinion. That's critical to asking follow-up questions to clarify technical or complicated testimony so that jury understands it. Ask expert: "How would you explain this opinion to a jury with no technical background?"

- **Other Tips for a Successful Direct Expert Examination**

- Avoid "expertise". Elicit testimony in straightforward terms. Use lay terms wherever possible and explain technical terms in lay language.

"ventricular arrhythmia" = heart attack
- Expert as patient teacher. Helping judge or jury understand the evidence.
- Explain methodology and why accepted in the field.
- Present findings clearly and progressively.
- Link findings to facts in dispute. Make expert testimony part of your story, theory of the case. Not just standalone ivory tower testimony. Integrate testimony into case.
- Analogies or comparisons that relate complex topics to familiar experiences.
- Step-by-step descriptions of methodologies. SIGNPOST
- Pauses for clarification when new terms are introduced.
- If an expert testifies that "something" happens, break it down by asking how it happens, and why it happens. Once you break down all the complex information,

always remember to bring it back to your case and how this information justifies your case theory.

- Finally, don't forget **demonstratives**. In addition to breaking down complex testimony, another effective tool to master the direct examination of an expert witness is to use demonstratives to explain major points. Demonstratives are visual aids, which are an effective tool in examining any witness, but since expert testimony can be far more complex, take advantage of demonstratives.

CROSS (Brittany)

Outline: Cross-Examining an Expert in Oregon Civil and Criminal Cases (5 minutes)

I. Framing and Objectives (30 seconds)

- Goal: Narrow the expert's authority, expose assumptions, highlight bias, and equip the factfinder with principled reasons to discount weight.
- **Purpose:** Maximize credibility attacks and limit the expert's persuasive power.
- **Importance:** Jurors often defer to experts; a focused cross can reframe the narrative and protect your theory of the case.
- Theme first: One-sentence theory of why this expert's opinion should not control (e.g., "Paid advocate relying on unvalidated methods and incomplete data").

II. Know the Expert (60 seconds)

- Credentials and scope
 - Licensure, board certifications, subspecialties; gaps vs. the opinion offered.
 - Publications, prior testimony, CV inconsistencies; confirm dates/versions exchanged in discovery.
- Financial/advocacy indicators
 - Compensation structure, percentage of income from litigation, party-side predominance (state vs. defense/plaintiff).
 - Prior exclusions, judicial comments, or sanctions; track via prior transcripts and orders.
- Methodology and data
 - Identify the "opinion pyramid": data inputs → methods/standards → assumptions → conclusions; note every link you can sever.
 - Literature relied upon; clinical vs. forensic standards; generally accepted practices in the specific field.

III. Oregon-Specific Foundations and Law (60 seconds)

- Expert admissibility standard
 - Oregon Evidence Code (OEC) focuses on OEC 702 (helpfulness/qualified), 703 (bases of opinion), 704 (ultimate issue), 403 (probative vs. prejudice), and 705 (disclosure of facts/data underlying opinions).
 - Emphasize Oregon's flexible reliability inquiry grounded in "fit," methodology, and nonspeculation; be ready to argue lack of sufficient facts or reliable methods under OEC 702/403.
- Hearsay/data bases (OEC 703)
 - Experts may rely on inadmissible data if reasonably relied upon in the field, but do not let this become a conduit for hearsay; seek limiting instructions; object to eliciting case-specific hearsay under the guise of "basis."
- Criminal nuances
 - Challenge forensic disciplines with documented error rates; scrutinize lab accreditation, uncertainty of measurement, proficiency testing, and analyst-specific error history.
 - Confront discovery compliance: in criminal cases, press for bench notes, calibration logs, software versions/algorithms, and validation studies; seek remedies if disclosures are incomplete.
- Civil nuances
 - ORCP expert disclosures: secure timely CVs, publications, reliance materials, and opinions; enforce supplementation; seek pretrial orders defining the opinion's scope.

IV. Preparation: Building the Cross (60 seconds)

- Lock the record pretrial
 - Depose thoroughly (civil) or conduct robust pretrial hearings (criminal) to fix opinions, bases, and methodology; obtain the latest CV and reliance list.
 - Motions in limine to cabin scope, exclude unreliable methods, or bar undisclosed opinions.
- Source materials
 - Authoritative texts and standards: identify what the expert will concede as authoritative; prepare clean excerpts for impeachment.
 - Prior testimony database: collect contradictions on methods, thresholds, certainty language.
- Exhibits and demonstratives
 - Prepare concise, one-screen visuals: timelines of data gaps, flowcharts showing assumption stacking, tables highlighting measurement uncertainty or confidence intervals.
- Sequencing
 - Plan short, self-contained chapters (3–5 minutes total): qualifications limits; method flaws; data gaps; bias/compensation; overstatement of certainty.

V. Questioning Techniques (60 seconds)

- Lead, fence, and close

- Use tight leading questions; one fact per question; begin with defensible concessions (definitions, standards) before the attacks.
- Box the scope
 - “Your expertise is in X, not Y;” “You did not perform [test];” “You did not review [critical source].”
- Methodology and standards
 - “There is no published error rate for your approach;” “No blind proficiency testing;” “No peer-reviewed validation for this application;” “Your method departs from [named standard].”
- Data and assumptions
 - Identify missing variables; expose assumption stacking; test sensitivity: “If [contrary fact], your conclusion changes.”
- Certainty and language control
 - Convert conclusory terms to measurable statements: confidence levels, ranges, alternative explanations, and limitations; impeach absolute terms.
- Bias and incentives
 - Fees, frequency for one side, marketing as “forensic expert,” contingency-style incentives (if any), volume practice.

VI. Handling Objections and Protecting the Record (45 seconds)

- Anticipate and preempt
 - Basis hearsay: ask nonhearsay foundational admissions first; then test reasonableness of reliance without eliciting inadmissible details.
 - 403 concerns: keep questions probative and concise; avoid argumentative tone; let the facts carry the sting.
- Offers of proof
 - If restricted, make a clean offer of proof to preserve appellate issues on reliability, scope, or basis.
- Curative steps
 - Request limiting instructions where the jury hears inadmissible “basis” details; ask to strike nonresponsive narrative.

VII. Oregon Practice Tips and Pitfalls (45 seconds)

- Jury focus
 - Oregon jurors respond to clarity and fairness; avoid attacking credentials when the stronger ground is method and data.
- Timing and order
 - Consider taking the expert out of order to follow a foundational witness; use court’s pretrial scheduling to obtain rolling productions of reliance materials.
- Language discipline
 - Avoid technical jargon; translate standards into plain language (“no known error rate,” “not independently verified,” “relies on assumptions, not measurements”).
- Remind the court of OEC 705 rights

- You may require the expert to disclose underlying facts/data on cross; use it to expose gaps succinctly.

VIII. Quick Checklist (15 seconds)

- Fixed opinions, methods, and data located and indexed.
- Authority concessions ready (texts, standards).
- Three chapters only: scope limits; method/data flaws; bias/certainty control.
- Exhibits queued; motion in limine rulings at hand.
- Plan for basis-hearsay objections and offers of proof.

IX. Closing Soundbite to the Jury/Judge (15 seconds)

- “This opinion asks you to trust assumptions the field has not validated, data the expert did not verify, and certainty the method cannot deliver. That is not reliable under our rules—and it is not persuasive.”
- **Purpose:** Maximize credibility attacks and limit the expert’s persuasive power.
- **Importance:** Jurors often defer to experts; a focused cross can reframe the narrative and protect your theory of the case.
- **During direct - Note:**
 - Background/Qualifications: Identify scope and limits of expertise; note gaps, outdated credentials, or non-clinical vs. clinical experience.
 - Bias and Financial Interests: Fee structure, frequency of retention, side predominance, marketing materials.
 - Prior Testimony/Publications: Prior inconsistent opinions, methodologies, or concessions; use transcripts and CV discrepancies.
- **Techniques:**
 - Lead, Don’t Wander: Use tight leading questions; one fact per question; control the witness.
 - Box the Scope: Secure concessions limiting opinions to specific domains, time frames, or datasets.
 - Challenge Assumptions: Replace assumed facts with record evidence; show how opinion collapses if assumption changes.
 - Expose Methodological Slippage: Highlight departures from protocol, cherry-picking, and ipse dixit conclusions.
 - Inconsistencies: Prior reports/testimony/publications vs. today’s opinion; read-and-lock with page/line references.
 - Common Ground First: Establish unimpeachable principles, then demonstrate expert’s deviation from them.
 - Use Numbers Carefully: Pin down ranges, margins of error, confidence intervals; show results are non-significant or non-differentiable.
 - Don’t Ask “Why”: Avoid open-ended questions; force yes/no. Offer documents to impeach if the witness evades.
 - Strategic Retreats: If witness fights, pivot to the next conceded point—don’t debate.

- **Handling objections during cross**
 - Form-Proof Your Questions: Short, non-argumentative, foundation laid; avoid compound or vague phrasing.
 - Anticipate Scope/Fairness: Tie each question to disclosed opinions, report pages, or deposition lines; be ready to cite the page/line.
 - Use Offers of Proof Wisely: If limited, make a succinct record and move on to preserve the issue without derailing rhythm.
 - Refresh vs. Impeach: Distinguish 612 (refresh) from 613 (prior inconsistent statement); show the statement, time, place, party.
 - Judicial Economy: If sustained repeatedly, reframe rather than re-argue; adapt to the court's guidance in real time.
 -
- Key Takeaways: Control the witness, narrow the opinions, expose assumptions, and anchor to authoritative standards and the record.
- Impact: Effective cross reframes credibility, reduces weight given to the expert, and aligns the evidence with your theory of the case.

NOTES

10/8/2025

- Cross/Direct
 - Practical considerations
 - Overlap with fact W - laying the table for comparing them
 - Distinguish
 - Kid gloves off; not as nice
 - Direct
 - Not much of difference rolling things out
 - Explore and examine frame work for how coming to conclusions
 - Based on [notes they have mythologies, any other accept, why did you choose,
 - You're here to give the jury an idea of our position
 - Limiting scope - what they're qualified to speak about
 - Cross
 - Nailing him with text book
 - More fun with expert,
 - Have report
 - Hold them to it
 - Your expert has educated 'counter inputter, do impeachment for you and tell you what to ask them.
 - In and out and then get your expert to rebut what they said.
 - State v. federal
 - Potentially including objections that you might receive and how to respond
 - e.g., Scope of testimony

- Keep it tight; stay on topic
- Cross - If they ask the question and don't know the answer