

Crediting an Expert Witness

FRE 702: Testimony by Experts

“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...”

STEP 1: Introduce (and Impress) Expert Witness

- As with any witness, you want to humanize them to the jury and, with an expert, you want the jury to know the witness’ qualifications to testify as an expert in the field of expertise.
 - Where do you work? How long have you worked there?
 - What does company do?
 - What is your position at the company?
 - Describe your duties at work?

STEP 2: “Knowledge, Skill, Experience, Training, or Education

- The hurdle is to establish that the witness has scientific, technical or “other specialized knowledge” in the field of expertise about which they will testify. Rule 702 was amended to include “other specialized knowledge” and the scope of possible expert testimony and opinions widened dramatically.
- Topics to qualify a witness include:
 - Work Experience: a witness can be an expert based upon experience alone (i.e., plumber for 25 years)
 - Educational Background: some courts allow you to offer and work off of the witness’ resume
 - Relevant Certifications
 - Relevant Training
 - Previously testifying in court as an expert/accepted as an expert by the court

STEP 3: Tender Witness as an Expert

Before an expert witness can give their opinions as to a specialized topic, you must ask the court to tender the witness as an expert in the field or profession that they are about to testify about.

- “Your honor, at this time, plaintiff tenders the witness as an expert in the field of security management.”
- “Your honor, we offer the witness as an expert in cardio-pulmonary surgery in infants.”
- “Your honor, the defense offers Ms. Vito as an expert in automotive knowledge and tire marks.”